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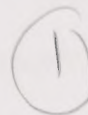








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## Legislative Assembly of Ontario

Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 22 April 2010

# Journal des débats (Hansard)

Jeudi 22 avril 2010

## Standing Committee on Justice Policy

Accounting Professions  
Act, 2010

## Comité permanent de la justice

Loi de 2010 sur les professions  
comptables



Chair: Lorenzo Berardinetti  
Clerk: Susan Sourial

Président : Lorenzo Berardinetti  
Greffière : Susan Sourial



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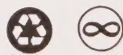
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 22 April 2010

Jeudi 22 avril 2010

*The committee met at 0903 in committee room 1.*

**The Chair (Mr. Lorenzo Berardinetti):** Good morning, everybody. I'd like to call this meeting to order. This is a meeting of the Standing Committee on Justice Policy on Thursday, April 22, 2010. This is to do with Bill 158, An Act to repeal and replace the statutes governing The Certified General Accountants Association of Ontario, the Certified Management Accountants of Ontario and The Institute of Chartered Accountants of Ontario.

## ELECTION OF VICE-CHAIR

**The Chair (Mr. Lorenzo Berardinetti):** The first item on the agenda is the election of a Vice-Chair. Do I have any nominations? Mr. Rinaldi.

**Mr. Lou Rinaldi:** Chair, I would like to nominate Ms. Pendergast as Vice-Chair.

**The Chair (Mr. Lorenzo Berardinetti):** So you've moved—

**Mr. Lou Rinaldi:** Well, she wasn't here when I did it, so I was hoping to catch her off guard.

**The Chair (Mr. Lorenzo Berardinetti):** This is her now, so you move Ms. Pendergast. Any other? Mr. Kormos.

**Mr. Peter Kormos:** This may have come as a surprise to Ms. Pendergast. Perhaps she needs some time to reflect on it. These elections, as you know, are spontaneous, nobody's whipping the vote, any number of people can be nominated, and the election's up to the majority. So, Ms. Pendergast, if you want five minutes, I'll be more than pleased to accommodate you.

**Ms. Leeanna Pendergast:** Actually, I appreciate that, really, a whole lot—my mom would love you for it, Mr. Kormos—but I've reflected and I'm pleased to accept the nomination.

**Mr. Peter Kormos:** Does this suggest, Chair, that there's no sense in nominating any other persons?

**The Chair (Mr. Lorenzo Berardinetti):** Well, the rules say that we can have nominations of any individual—

**Mr. Peter Kormos:** So if I were to nominate Mike Colle, for instance, and I do.

**The Chair (Mr. Lorenzo Berardinetti):** Yes, you can do that if you want.

**Mr. Peter Kormos:** I did.

**Mr. Mike Colle:** I refuse to accept.

**Mr. Peter Kormos:** Let's put this to a vote.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. No more nominations? That leaves Ms. Pendergast acclaimed as the new Vice-Chair of the committee. Congratulations, Ms. Pendergast.

*Applause.*

**Ms. Leeanna Pendergast:** That's very exciting. Thank you. I saw you applaud a little bit there, Peter.

**Mr. Peter Kormos:** May you be so fortunate in 2011.

**Ms. Leeanna Pendergast:** Yes, thank you for that blessing.

## SUBCOMMITTEE REPORT

**The Chair (Mr. Lorenzo Berardinetti):** The next item on the agenda is the report of the subcommittee on committee business. I think Mr. Zimmer is prepared to read in the report.

**Mr. David Zimmer:** Having carefully studied the report of the subcommittee, I move the following:

Your subcommittee on committee business met on Thursday, April 1, 2010, to consider the method of proceeding on Bill 158, An Act to repeal and replace the statutes governing The Certified General Accountants Association of Ontario, the Certified Management Accountants of Ontario and The Institute of Chartered Accountants of Ontario, and recommends the following:

(1) That the committee hold one day of public hearings at Queen's Park on Thursday, April 22, 2010.

(2) That the committee clerk, with the authority of the Chair, post information regarding the committee's business for one day in the business sections of the following publications: the National Post, the Globe and Mail, the Toronto Star, the Toronto Sun, and L'Express.

(3) That the committee clerk post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 158 should contact the committee clerk by 5 p.m., Thursday, April 15, 2010.

(5) That, on Thursday, April 15, 2010, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(6) That groups/individuals be offered 15 minutes in which to make a presentation.

(7) That, if all groups/individuals can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.



(8) That, if all groups/individuals cannot be scheduled, the committee clerk, in consultation with the Chair, reduce the presentation times to 10 minutes.

(9) That, if all groups/individuals cannot be scheduled with 10-minute presentations, each of the subcommittee members provide the committee clerk with a prioritized list of names of groups/individuals they would like to hear from, by 12 noon, Friday, April 16, 2010, and that these names must be selected from the original list distributed by the committee clerk to the subcommittee members.

(10) That the deadline for written submissions be 5 p.m., Monday, April 26, 2010.

(11) That the deadline (for administrative purposes) for filing amendments be 5 p.m., Tuesday, April 27, 2010.

(12) That the research officer provide the committee with a summary of witness testimony prior to clause-by-clause consideration of Bill 158.

(13) That the committee begin clause-by-clause consideration of Bill 158 on Thursday, April 29, 2010.

(14) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Is there any discussion? None? So can we adopt the subcommittee report? Carried.

## ACCOUNTING PROFESSIONS ACT, 2010

### LOI DE 2010

### SUR LES PROFESSIONS COMPTABLES

Consideration of Bill 158, An Act to repeal and replace the statutes governing The Certified General Accountants Association of Ontario, the Certified Management Accountants of Ontario and The Institute of Chartered Accountants of Ontario / Projet de loi 158, Loi visant à abroger et à remplacer les lois régissant l'Association des comptables généraux accrédités de l'Ontario, les Comptables en management accrédités de l'Ontario et l'Institut des comptables agréés de l'Ontario.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on the next item, then. We're going to hear from deputations this morning. They're 15 minutes long.

## CHARTERED INSTITUTE OF MANAGEMENT ACCOUNTANTS

**The Chair (Mr. Lorenzo Berardinetti):** The first one this morning is the Chartered Institute of Management Accountants, CIMA, United Kingdom, or UK. It's Charles Tilley. I'll welcome you to committee while you take a seat. You can speak for up to 15 minutes. Any time that you don't use up will be divided between the three parties to ask you questions. Good morning.

0910

**Mr. Charles Tilley:** Good morning, and thank you for the opportunity to speak and, to the committee members, for being here and for listening to what I have to say. I'm the chief executive of the Chartered Institute of Management Accountants. We typically call the Chartered Institute CIMA. I'm here from the UK because this is something which is a very important issue to our members here in Canada. I hope my presence here indicates just that.

I'm appearing here because we at CIMA believe that we would like to ask for the bill to be amended in one of two ways. One would be to allow foreign-designated accountants to use their designation with the country of origin as a suffix in parentheses. The alternative would be to limit the scope of the restrictions to those accountants who provide accounting services to the public. Our ultimate preference would be, obviously, to strike the clause out altogether.

You have the details of our overall arguments being circulated to you, but just to focus on the main issues, CIMA is an international professional body. It's headquartered in the UK and was established way back in 1919. It has a royal charter and today has a membership of over 170,000 members and students in over 165 countries, with well over 1,000 of those here in Canada. Its primary focus is on financial management in business. Most of our members do not practise; they work in business, but their letters are obviously very important, i.e., we're not a body of auditors.

Of course, all our members are subject to a code of ethics. The royal charter insists that we work in the public interest and that we're very much about driving forward and promoting management accounting around the world. In fact, I've just been given a copy of the Canadian management accounting magazine and was delighted to see an advertisement there for some of our management accounting work on a jointly badged basis with the American certified public accountants, the Canadian management accountants and ourselves.

We obviously object to the sections on the bill, but the reason for that is because they're limiting our members from using their designatory letters, which they have achieved through successful completion of exams—uniform, those exams are—and a minimum of three years of practical experience. Very importantly, a CIMA member can go anywhere in the world to work using their designatory letters except, if this bill is passed, here in Ontario. The bill is quite rightly focused on the administration of Canadian accounting bodies; that's clearly appropriate. The bill is protecting against individuals holding out that they have qualifications that they don't have; that's obviously the right thing to do. But the clauses on designatory letters seem to us to be unfair and not in the best interests of Ontario. We do not believe there is any confusion in the marketplace. Instead, we would say that it's a block on immigration and actually, if anything, risks isolating Ontario.

Just to go into a bit more detail, we believe that Bill 158 is protectionist. We're working in a global world and



it seems to disadvantage one group of externally qualified persons against a favoured local body. We've certainly not come across similar legislation anywhere else in the world, and it seems to me to go against the grain of a global marketplace. A question that obviously has to be asked is: Will it drive retaliatory action elsewhere in the world?

It also appears in contravention of the spirit of the free trade and services as agreed on by CETA.

Now moving on to the protection of consumers, I'm not sure where Bill 158 does anything to further the public interest. The most important thing, surely, is making sure that those people who are unqualified and offering services are properly regulated, not to restrict those who have appropriate letters and qualifications from around the world. Surely the issue is the unqualified accountant.

Certainly, just to repeat: We've not seen any evidence that consumers are actually confused by the non-Ontario-based accountancy designations.

I suppose, really, in today's global world, another question is: Is it really right to suggest that only those qualified in Canada are to be trusted as professional persons? Our members are subject to rigid enforcement of our ethics code, and they have to keep up to date with their qualifications through a CPD program.

Moving on to the fairness issue: Many people—for example, those of our members who would be in Sri Lanka—qualify with CIMA because it gives them a portable qualification. It's one that enables them to use their skills elsewhere. It seems that Bill 158 is seeking to lock such people out of Canada. It's denying them the right to signify their professionalism and to use their designatory letters.

We understand that TRIEC has concluded that this is detrimental to the integration of immigrants into suitable employment, and I'm sure that's a very important issue, and also that the South Asian Legal Clinic of Ontario believes that the restrictions are inconsistent with the Immigration and Refugee Protection Act. It's interesting to note that in that act, CIMA is recognized as a professional designation for immigration into Canada. So we will have the situation that CIMA is accepted by immigration authorities to get into Canada, but if this bill goes through, it will then be illegal for them to use their designatory letters once they arrive in Ontario. Those are, I think, issues which really need to be thought long and hard about.

Ultimately, we believe that this is unfair to individuals immigrating to Canada. It's a block on immigration, in other words, putting international accountants at a disadvantage.

In the Ontario marketplace, we see no evidence of confusion. As I've already said, less than 5% of our members actually work in practice where there is a direct interface with the public.

Ultimately, we believe the proposed change will harm Ontario in its efforts to support global organizations—and I'm sure you'll be hearing from one of those later on today—and activity in the global marketplace.

The message that we see that this potential bill, if enacted, is putting forward is that we're only interested in Canadian-grown professionals. But what about Open Canada? As your Premier has said, Ontario actively seeks skilled immigrants. If Canada, and Ontario specifically, wants to grow on a global stage—and it seems in the present world and the troubles that every country faces, growth is critical for all developed countries, and in that respect, I think, Canada is no exception—there is a need to bring in expertise from overseas, qualified professional accountants. As I've said, we see no confusion in the marketplace anyway. Ultimately, the risk, it seems to me, is actually isolation.

So, concluding, we're aware that the Attorney General is proposing amendments to the bill, and the fact that it's being looked at is obviously positive. But our belief is that those amendments, so far, leave too much to interpretation.

In the current draft of the bill, we would request, as I started with, that the bill is either struck out or that there are two options. One is that foreign-designated accountants are able to use their designation, with the country of origin as a suffix in parentheses; alternatively, the scope of this bill is limited to restrictions to those accountants who provide accounting services to the public.

Thank you very much for listening to me. I'm happy to answer questions.

0920

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about five minutes left, so roughly just under two minutes per party. We'll start with the Conservative party and Ms. Elliott.

**Mrs. Christine Elliott:** Mr. Tilley, first of all, thank you very much for taking the time to join us today. We really appreciate your presentation and understand that it is a matter of significant concern, both locally and internationally.

I'm particularly interested in your comments about these moves really being detrimental to the whole Open Ontario policy that this government is presenting by really restricting the abilities of professionals trained in different jurisdictions to be able to practise here. I'd be interested in your comments on the response that you've received from the government with respect to that, as well as the issue that the government seems to have with consumer protection. If you could speak just a moment about what kinds of regulatory abilities your own body has with respect to your membership that may dissipate those concerns.

**Mr. Charles Tilley:** If I could deal with the second point first. Thank you for the question. As I said earlier, the number of our members who are actually working in practice at their level and have a direct interface with the general public is actually very low; it's under 5%. Most of our members are working in business, where being able to demonstrate their professionalism is absolutely critical to them. I think it's also critical to the companies concerned, in that they're all global. They want to move people around the world and so forth, and to be able to attract good people is very important in that respect.



In terms of how we discipline our people, first of all, CIMA, which is one of six UK accounting bodies, is overseen by the Financial Reporting Council, which is a part of the UK's government. So all of our regulatory processes and our disciplinary processes are overseen by the UK government.

Significant public interest cases are actually dealt with by the Financial Reporting Council themselves, called in from CIMA. As far as other cases are concerned, we have a process which is independent of CIMA. It goes through an investigation process, a full disciplinary process, and ultimately we can fine. We can name, shame, fine or ultimately throw our members out of the institute.

As far as Open Ontario is concerned, our discussions so far have been about trying to influence the wording in the bill. We have not had significant discussion on that, but it just seems to me that Canada is a member of the G20. It clearly wants to play on the global stage and has some wonderful global companies, and those organizations, whether they be the Bells of this world or the KPMGs and the big accounting firms or whatever, all want to be able to move their people around the world. Then, of course, there are the issues of just actually supporting local business in terms of their activities globally. It seems very obvious that there should be the ability to move people around.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, I'm going to stick to the time. Thanks for that. Mr. Kormos for the NDP.

**Mr. Peter Kormos:** Thank you kindly, sir. This is a head-shaker. I, for the life of me, don't understand what was in the government's mind when they drafted this legislation. To assault foreign-trained professionals—I said "assault," not "insult," assault them this way—just runs contrary to everything that people have been working so hard to achieve here, in this province at least, in terms of giving foreign-trained professionals recognition for their status. So thank you for your comments.

Your observation about lack of public protection: Heck, any Tom, Bernie or Conrad—I picked the names of Bernie Madoff and Conrad Black, of course—could set up shop in Ontario as an accountant and they'd be kosher. This bill does nothing to protect folks from the likes of a Bernie Madoff or—Conrad Black is British now, you understand; he's not a Canadian citizen anymore. And I suspect that because he's a felon, he can't get into the country, which is good by me.

I thank you for your submission. We'll keep dogging the government. Don't blame Mr. Zimmer. He does his best with these files, but he's obviously in a difficult struggle with the brain trust in the Premier's office on this one.

**Mr. Charles Tilley:** Thank you for your support on this.

**Mr. Peter Kormos:** No problem. And "brain trust," of course, is an oxymoron.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party. Mr. Zimmer.

**Mr. David Zimmer:** Mr. Colle.

**The Chair (Mr. Lorenzo Berardinetti):** Oh, Mr. Colle.

**Mr. Mike Colle:** I'm not here to talk about Conrad Black's designation to the House of Lords. I'm here to talk about—

**Mr. Peter Kormos:** Don't be socking it to him now.

**Mr. Mike Colle:** Yes—wherever he's designated.

Again, I want to thank you for coming all this way. It's really important for us to have you here. We do appreciate you taking the effort to do it.

One of the questions that has come up in my mind is: What happens if a CGA, a CMA or a CA from Canada goes to the UK and tries to get his designation recognized or work in that environment in the UK? Are there any restrictions, or are they able to practise their professional trade there without restriction?

**Mr. Charles Tilley:** In terms of using their designatory letters, which is what we're talking about here, there is absolutely no restriction whatsoever. You can say, "I'm a CGA; I'm a Canadian Chartered Accountant; I'm a Canadian Management Accountant." You're free to do that, and our experience is, in fact, that you can do that anywhere in the world. This is the first time we've come across the suggestion that the actual use of the designatory letters should be restricted—or banned, in fact.

**Mr. Mike Colle:** Okay. Thank you very much, sir.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. That completes the time allotted. Mr. Tilley, thank you for your presentation this morning.

**Mr. Charles Tilley:** Thank you. It was a pleasure.

## KPMG

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation from KPMG. We have Michael Bach, the national director of diversity. Good morning, and welcome.

**Mr. Michael Bach:** Good morning, Mr. Chairman and committee members. I want to thank you for allowing me the opportunity to speak to you regarding Bill 158. It's an honour and privilege to have the opportunity to address you today.

As you already know, my name is Michael Bach, and I'm the national director of diversity, equity and inclusion for the accounting firm KPMG. My participation in these proceedings involves somewhat of a balancing act, and may be a surprise to some. On one hand, as one of Canada's largest public accounting firms, KPMG enjoys a close relationship, particularly with the Institute of Chartered Accountants of Ontario, but certainly also with the certified general accountants and the Society of Management Accountants of Ontario. Clearly, my organization is highly affected by this act.

Conversely, as a prominent employer in Ontario and one that has been publicly acknowledged for our work in recruiting and retaining internationally trained accountants, we felt it was critical that we show our support for this province's skilled immigrant population. As such, I



appear before you today speaking on behalf of KPMG to express our views on this important legislation.

As the committee is well aware, the previous Chartered Accountants Act was introduced in 1956 and, I think we can all agree, was in need of changes to better reflect the realities of our profession today. This new act will clearly provide better protection to consumers by enhancing the authority of our regulatory bodies in a number of areas.

KPMG strongly supports this new act, at least in principle, as it will provide a great deal more rigour to the accounting profession in the province of Ontario and will provide increased protection for our consumers. There is no question that this new act will provide much-needed clarity.

That said, we feel that some of the language used in this new legislation may be cause for concern. As it stands, and even with the proposed amendments, the language may inadvertently risk creating barriers for individuals who have received an accounting designation outside of Canada, at a time when governments and organizations are working hard to remove potential barriers. Having recently been named one of Canada's best employers for new Canadians for the third year in a row, we feel we have an obligation to draw attention to this potential risk in the act.

KPMG has made a clear commitment to diversity and inclusion, not because it's the right thing to do or because we are acting as good corporate citizens, but rather because it's the right thing to do for our bottom line. Many studies have shown that diverse teams produce better and more creative results because they have a diversity of thought and experience. We've particularly applied special focus to the attraction and retention of internationally educated accountants because they are key to our long-term success as a business.

0930

We recognize and believe the validity of reports from Statistics Canada and the Conference Board of Canada that clearly show that at some point in the next 20 years, we as a nation will be completely dependent on immigration for any net growth. We also recognize that our firm and our profession will not be immune to that reality. Reports such as these are not harbingers that we should fear, but draw attention to the need for a more inclusive province and country, particularly as it relates to the integration of skilled immigrants. Even in a sluggish economy, we continue to face talent shortages that affect our ability to maintain our top line, let alone grow. As of today, there are 126 open positions in our firm across the country, the majority of which are here in Ontario: 74 of those are client-facing roles, most of which require a professional accounting designation.

We are not alone. Many employers—some of them are competitors; some of them are clients—find themselves in similar positions, all seeking qualified, highly skilled individuals to fill accounting roles. Yet the pool of talent is not growing at a sufficient rate to support our demand. The greatest opportunity for success lies with skilled immigrants.

The key concern about which I wish to speak to you relates to the use of foreign designations in key documents, such as resumés and proposals, particularly those that have similar designatory letters to the chartered accountant designation, or CA, which is used by a number of governing bodies globally. Australia, New Zealand, South Africa, India and Pakistan are but a few that use the same designation as we do here in Canada.

We believe the issue at hand is mostly due to an ambiguity of language. On one side is the ICAO, the CGA and the CMA wishing to have stronger regulations and more authority to protect consumers, something KPMG fully supports. On the other side are advocates of the newcomer population, who are fighting for an exceptionally worthwhile cause: removing barriers for skilled immigrants to find work in their chosen profession and quickly become contributing members of Ontario society, a cause we equally support.

The language of the act presents a number of unanswered questions. As an example, it draws into question whether or not existing KPMG people will be permitted to use their foreign designations. To illustrate, let's consider a person with a CPA—a certified public accountant—from the US. I've been told by legal counsel that this most definitely would not affect a person with a CPA. I have been told by different legal counsel that, in fact, it might affect a CPA. It's open to interpretation.

Schedule C, subsection 27(1), clearly states:

"No individual, other than a member of the institute, shall, through an entity or otherwise,

"(a) take or use the designation 'chartered accountant' or the initials 'C.A.', 'CA', 'A.C.A.', 'ACA', 'F.C.A.' or 'FCA', alone or in combination with other words or abbreviations...."

Some might interpret that the use of "CPA" would therefore contravene the act.

At last count, there were nearly 300 people at KPMG offices in Ontario alone with certifications from other accounting bodies that may or may not be affected by that statement. Admittedly, the majority, if not all, have their CA as well, something we encourage and support for all of our internationally trained staff. However, the potential for issue is clear.

This ambiguity becomes even more salient with the globalization of our clients and our business. I'm sure most here today are aware that book retailer Amazon has recently been approved by the federal government to establish operations in Canada. I'm certain they'll be looking for accounting professionals who have an understanding of the tax law in the various jurisdictions where they operate. Individuals with CPAs and US tax experience will be critical to winning that work. However, if they choose Ontario for their main base of operations, will our people be able to have their CPA designation on that proposal? What if that client were Vodafone, with operations in 20 countries? As one of KPMG's largest global clients, securing that work was not only enhanced by a variety of accounting designations, but in fact we won the work because of those designations.



We understand that a key issue is whether a person attempts to purport themselves as a chartered accountant who is not a member of the institute, someone who attempts to hang a shingle, as it were, and confuses consumers by advertising themselves as a CA when they may in fact be a member of another institute that uses the post-nominal "CA." I recognize that the government's proposed amendments are an attempt to clarify this point, but there still exists the potential to interpret that an individual applying for a job with a foreign accountant designation, listing it on a resumé, could be considered to be selling themselves by using said designation and therefore subject to substantial fines.

Lastly, as Canada moves towards the adoption of the international financial reporting standards, or IFRS, KPMG is actively looking to hire individuals from countries that have successfully adopted IFRS already to assist our clients with the somewhat complicated process. Their experience in this area will be invaluable; however, if they won't be able to promote their foreign accounting designation, that value may be severely diminished.

We believe that each party is working independently towards the same goal: increasing regulatory protections and reducing barriers for skilled immigrants. We don't believe for a moment that the interest of the ICAO is to create barriers. We believe that they are acting in the best interests of the profession and their members. We believe they share the goal of removing barriers for skilled immigrant accountants to work in Ontario.

We further don't believe that the Toronto Region Immigrant Employment Council and other newcomer advocates are looking to lessen protections or the authority of the governing bodies. Far from it: They are performing the sometimes thankless task of helping to make Ontario a more inclusive place to live and work.

In trying to cover off potential risks, and I am certain having the best of intentions, the authors of the act have seemingly painted themselves into a proverbial corner. We are absolutely certain that this government was in no way attempting to create barriers for skilled immigrants. Yet here we sit.

Clearly, I'm not a legislator or a lawyer. My specialty lies in removing barriers and creating inclusive workplaces. But if my layman's interpretation of the act can cause confusion for me, imagine what it will do for an internationally trained accountant, many of whom have English as a second, third or fourth language. It's our understanding that the Toronto Region Immigrant Employment Council as well as other bodies have proposed a solution that language be added to the legislation that clearly indicates that an internationally qualified accountant with a recognized designation may use that designation, provided they clearly state the issuing jurisdiction in parentheses immediately after. KPMG supports this suggestion, again, in principle, or a variation on this suggestion that will not inadvertently create barriers for foreign-trained accountants and at the same time will maintain or increase protections for Ontario consumers.

We are here today calling on the Ontario government to work with stakeholder groups from both sides to

attempt to find a solution that will reach our common goal.

I'll conclude by telling you a brief story. I am a Canadian, born and raised in this fine province, in this extraordinary city. I'm an eighth-generation Canadian. At my core, I'm an immigrant. My lineage is a combination of English, Welsh, Scottish and Irish. What does it mean to be Canadian?

KPMG fully supports the ICAO, the CGA, the CMA, and the adoption of Bill 158 to create a safer environment for consumers as it relates to the accounting profession. However, we would also encourage the government to ensure that the language used is clear, concise, and does not inadvertently create barriers for the people we are actively trying to bring to our province.

Ontario's Fairness Commissioner, the Honourable Jean Augustine, once said, "We all came here on ships and now we're all in the same boat. To succeed, we must all row together."

Thank you for your time.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Bach. We have about one minute per party, for a total of three minutes. This time, the rotation starts with the NDP. Mr. Kormos.

**Mr. Peter Kormos:** Thank you, sir, for a rather eloquent presentation.

**Mr. Michael Bach:** Thank you.

**Mr. Peter Kormos:** Sometimes it's useful to put yourself in the shoes of the other party, to try to see what they see and try to figure out why they might have done something that they've done. I suspect you've done this. What in the name of God could have persuaded the Premier's office to endorse legislation like this that excludes a huge community of highly trained professionals—obviously, by virtue of the regulatory body, almost inevitably foreign-trained professionals? What could have been the rationale?

**Mr. Michael Bach:** Well, certainly I can't speak for the Premier's office—

**Mr. Peter Kormos:** Of course not, but let's try to look at this from their perspective. I'm trying to figure out what happened here.

0940

**Mr. Michael Bach:** I don't believe, as I said, that the intention of this government was to create barriers. I think it inadvertently—

**Mr. Peter Kormos:** You think this was an accident?

**Mr. Michael Bach:** I believe that, yes.

**Mr. Peter Kormos:** Wow. We've got a lottery draw tonight. It's the PayDay lottery. I'll buy you a ticket.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party. Mr. Zimmer.

**Mr. David Zimmer:** The government intends, at the proper time, to introduce a motion amending the bill to do the following, and I just want to get your reaction to it: People not residing in Ontario can use foreign designations. There will be some exceptions for residents and non-residents where foreign designations will be available in certain circumstances, such as presenting at a con-



ference or applying for a job. Are some of your concerns alleviated by those amendments?

**Mr. Michael Bach:** I certainly think the language is in the right direction. I think that it should be more explicit, certainly in a way that will ensure that there can't be interpretation that will exclude—again, the examples of the CPA or the Indian CA. In no way do we want to confuse consumers, and I think the Institute of Chartered Accountants of Ontario and the government have an opportunity to further educate those consumers to make sure they do understand the difference.

At the same time, we don't want to find ourselves in a situation where a foreign-trained accountant is limited in their ability to apply for a job because they aren't able to include that designation. We would encourage the government to include explicit language, similar to what has been suggested.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. We're going to have to move on. Thank you. Anyone from the Conservative—Mr. Clark.

**Mr. Steve Clark:** Just a quick comment: First of all, thank you for your presentation and congratulations on your award as one of the best employers for new Canadians.

**Mr. Michael Bach:** Thank you.

**Mr. Steve Clark:** It's been interesting. We've had two speakers talk about this issue of parentheses and removing barriers, and we've already got a bit of a bomb thrown up for you to consider. I'd like you to just make a quick comment about the issue of barriers, because I know that in your company, obviously, you want to try to have people come in to take those 126 open positions. Please give me another comment about that.

**Mr. Michael Bach:** I think it's very important that we as Ontarians and as Canadians do everything we can to create inclusive work environments, particularly for skilled immigrants who have the opportunity to fill professions that are in need. I think of doctors as another example. Obviously, we need to have regulatory standards to ensure the protection of Ontarians. I would never suggest for a second that we should simply open the doors. That said, I believe we need to do a better job of removing those barriers and ensuring that we're not inadvertently adding language that would create one.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you.

**Mr. Peter Kormos:** On a point of order—Chair?

**The Chair (Mr. Lorenzo Berardinetti):** First of all, I just wanted to thank Mr. Bach for being here.

**Mr. Peter Kormos:** I thank you too, sir.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Go ahead.

**Mr. Peter Kormos:** The parliamentary assistant, here on behalf of the minister, made very specific reference to an amendment that he suggests will be tabled at the appropriate time. That amendment is a document. As I say, the parliamentary assistant was very specific in his reference to it, so there's no confusion as to what document he's referring to. It's my submission that when a government refers to a document in the course of dis-

course, the Chair should call upon it, upon request, to table that document; the government must table that document. I suggest to you that Mr. Zimmer, by making that very specific reference to it, has put himself in a position where he has no choice but to table it now, rather than waiting until a time that he deems fit.

**The Chair (Mr. Lorenzo Berardinetti):** With the understanding that—I think he said that it's proposed. It's not—

**Mr. Peter Kormos:** Well, it's still a document, and he referred to it with some specificity. There can't be any doubt about which document it is, can there?

**The Chair (Mr. Lorenzo Berardinetti):** No, he read something out. Okay, Mr. Zimmer, did you—

**Mr. David Zimmer:** Well, I specifically used the language "The government intends" to bring a motion to amend the bill to deal with those points. That has not been reduced to print yet or hard copy, but I'm sure, in due course, when a copy becomes available that you can put your fingers on, something in print, we'll get you up to steam.

**Mr. Peter Kormos:** Chair, I'm not talking about tabling the amendment; I'm talking about the document. Mr. Zimmer is an experienced, very competent member of this chamber. He's a very long-time parliamentary assistant to the Attorney General, one of the senior ministries. He would not freelance or wing it when describing this proposed amendment. I'm talking about the document that describes the proposed amendment. I'm not talking about the amendment. There's a document. People don't do these things over the phone without making notes. There is, make no mistake about it, a document that he made reference to, and that is the proposed amendment. It's not in amendment format. I'm not asking for the amendment; I'm asking for that document. You have to rule.

**The Chair (Mr. Lorenzo Berardinetti):** Any more discussion? Mrs. Elliott.

**Mrs. Christine Elliott:** I would agree with Mr. Kormos. Surely, if there is a document there, it is particularly relevant while we are hearing from presenters to be able to consider it. If the government is already contemplating changes, then I would submit that we should all know about them now.

**Mr. David Zimmer:** I specifically said, and I quote: "The government intends to bring a motion amending the bill to indicate that" such and such. Obviously, discussions had been under way. When it reaches the point where there is a document with language, then we'll get everybody up to steam on it.

**Mr. Peter Kormos:** Chair, he just did it again. He said, "And I quote." Why can't they table what he's quoting from? That's a document.

**The Chair (Mr. Lorenzo Berardinetti):** All right. The committee is governed by the standing orders that are created or passed by the Legislative Assembly. I don't know of any section in the standing orders that refers to having to table a document. I mean, he could refer to a National Geographic article; does he have to



then table it? Or if you refer to "Life in the UK in the 21st Century," do you have to table it?

**Mr. Peter Kormos:** Chair, he did it. He referred to an internal government document—

**Mr. David Zimmer:** No. On a point of privilege, Chair: That's not what I said. I've got my notes here. I said, "The government intends to bring a motion amending the bill to indicate." There's no mention that there's a document in there. There's an expression of an intention on the part of the government to do thus-and-thus in terms of an amendment. When those discussions mature to the point where there is a formal document that reflects those proposed amendments, then of course, stakeholders and interested parties will be formally and technically informed.

**Mr. Peter Kormos:** I'm not going to belabour this. There's the standing orders, and then there's Marleau and Montpetit, there's Bosc, there's Beauchesne, there's Bourinot, and there's Erskine May, for starters—Griffith and Ryle; I'll throw that in, too—all of which indicate that the precedent is clearly established. I'm submitting that he's referring to a document. The Chair declines to order production of it—

**Mr. David Zimmer:** Well, maybe you should go and round up those four or five volumes and table the volumes.

**Mr. Peter Kormos:** You don't have copies of them? They're in the library.

If the Chair declines to order the tabling of it, that's fine, too.

**The Chair (Mr. Lorenzo Berardinetti):** There's no real prepared document. I don't know how long it takes for them to produce their Hansard, but probably in a couple of days' time, it will be in printed form, whatever he read. We do create a Hansard for the committee.

**Mr. Peter Kormos:** It's okay, Chair. It's okay. We can move on.

**Mr. David Zimmer:** Mr. Kormos is just being mischievous.

**The Chair (Mr. Lorenzo Berardinetti):** No, no, let's stop it there, because we want to get the appointments done.

Thank you for the point of order. Thank you for the discussion.

MR. COLIN SHAW

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the next presenter, Colin Shaw.

**Mr. Colin Shaw:** Good morning, Mr. Chair, and good morning, honourable committee members. Thank you for allowing me to speak this morning. I feel fortunate that I am following two such eloquent presentations, but I'm also cognizant of the fact that I may well be repeating many of the points that have already been tabled.

My name is Colin Shaw. I fall in the 95% camp of not offering services directly to the public. I am a fellow of the Chartered Institute of Management Accountants of the UK, a certified fraud examiner, a certified manage-

ment accountant and a former employee of the Society of Management Accountants of Ontario. Despite the accent, I have not travelled the great distance that Mr. Tilley has travelled today. I am a permanent resident of Ontario. I am a proud new Canadian and father of two children here in Ontario currently seeking citizenship. I currently hold classified government clearance through my role in internal audit. I've also had the privilege of refereeing international rugby across the world for Canada. I'm appearing today in a personal capacity, not as a representative of CIMA UK or CIMA Canada.

**0950**

However, consistent with the presentation of Mr. Tilley, I am seeking proposed amendments to the bill as tabled, either a limitation in scope which limits it to accountants offering services directly to the public or the use of "UK" in parentheses after the designating initials of the CIMA organization, ACMA or FCMA. I believe this is consistent with the practice currently—I think "condoned" would be a hard word, but currently permitted by the CICA and the Institute of Chartered Accountants of Ontario as it relates to the CPA designation, where individuals with that designation are allowed to use that on their resumés and business cards as long as the parentheses include the state in which that designation was obtained. It also includes an important point for me: Whatever amendment is proposed is to be all-inclusive in scope. By "inclusive," I mean resumés, emails, business cards and also conference speaking notes.

As a fraud examiner and investigator with PricewaterhouseCoopers, I am very familiar with the rules and regulations governing the profession of public accounting. For this reason, I was hired by the Society of Management Accountants of Ontario to work on their public accounting initiative, which I fully support. There, I've become equally familiar with the Public Accountants Council of Ontario and the governance that they intend to provide over the profession of public accounting in Ontario in order to protect the public.

I simply provide this as background because the profession of public accounting and the profession of management accounting are very, very different, yet arguments are being made that the two are one. Practically, however, I am not certain how Bill 158, as tabled, will further the cause of consumer protection against the likes of Conrad Black and Nick Leeson and the events that we saw in Nortel.

The problem: With the exception of schedule B, clause 26(1)(a), as I have indicated in correspondence with the Attorney General's office and his staff, I wholeheartedly support Bill 158. I've spent over half of my professional career investigating fraud or advising on how to prevent and detect fraud, and I remain committed to protecting corporate stakeholders and the public interest. After all, Bill 158 is a housekeeping bill that consolidates the legislation governing the three regulated accounting bodies in Ontario in anticipation that they will all be able to license public accountants at some point in



the future and that this will no longer be limited to the Institute of Chartered Accountants of Ontario.

However, schedule B, clause 26(1)(a), appears to be protectionist in nature and nothing short of legislated round protection for CMA Ontario by restricting the use of the letters CMA. I have written to the honourable committee members but wanted to summarize the key points of my letter and my cover email here today.

Firstly, I reiterate again that the profession of public accounting and the profession of management accounting are very different, not one and the same. When all three regulated accounting bodies in Ontario are able to license public accountants, I understand from the CEO of the Public Accountants Council that the intent remains to have a net new designation, that of licensed public accountant, or LPA, so no confusion there.

Again, as a certified fraud examiner, I am all about the evidence. To the best of my knowledge, no independent and empirical evidence has been put forward to support any assertions that there is confusion in the market about accounting designations in Ontario. In contrast, as Mr. Tilley pointed out, there are several accounting designations in the UK, and there appears to be no confusion. There certainly is no legislation similar to Bill 158.

Thirdly, CIMA UK did not enter into a mutual recognition agreement with CIMA Canada expecting to lose right to title. I certainly didn't undertake my CMA designation here in Ontario on the expectation that I would have to give up the right to use my English designated letters. Quite conversely, CIMA, as Mr. Tilley also pointed out, does have a rigorous disciplinary process, as do CMA Canada and CMA Ontario, and this is reflected in the mutual recognition agreement, a somewhat circular argument.

Fourthly, Ontario's CMAs, as Mr. Tilley pointed out, are not precluded from using their designation in the UK or any other of the 164 countries in which CIMA governs its members. Conversely, this specific element, schedule B, section 26, clause 1(a), does appear contrary to the Premier's commitment to immigration, and also, I think, to the federal commitment to interprovincial labour mobility.

Possible solutions: I understand that CIMA will be tabling a number of amendments to ensure that the bill will not negatively impact the Ontario government's stated policy. Personally, however, I feel that this clause appears without merit and I would like to see it dropped.

If this is not viable, my recommendations would be to limit the scope to those people offering services directly to the public, or to use the parentheses. Again, should confusion in fact be shown to exist, I fail to understand why the "UK" in parenthesis would not be self-explanatory. In addition, at the very least, this should prompt a question from the consumer of the accounting services as to what that means, the legal principle of caveat emptor.

Finally, to reiterate, I feel that the scope should be extended to include resumé, business cards, emails and conference speeches. There should not be one rule for one and another rule for the other. There should be consistency.

To recap: It's my personal belief that schedule B, section 26, clause 1(a), appears to be protectionist in nature. It appears to be contrary to the Premier's commitment to immigration.

I urge you, as the committee members and also the policy-makers, to fully understand the difference between public accounting and management accounting, and to truly understand what additional public protection, if any, is required for the practice of management accounting.

As I urged in my cover email to the honourable members of the committee: If you've not already done so, I do urge you to speak to Sandra Pupatello, MPP, regarding her recent trade mission to the UK, where she faced opposition to Bill 158 from our extended member network, the mayor of London and the Foreign Office at many of the events she attended.

I'd also like to re-emphasize the fact that the presence of Mr. Charles Tilley here today, the CEO of CIMA, illustrates our concern with this small but nevertheless important aspect of Bill 158.

In closing, I would like you to consider the CIMA motto: "Probitas, accuratio, justitia"—honesty, accuracy and justice.

In closing, through your deliberations, I wish the honourable committee members and the policy-makers success in concluding on these matters in the aspects of Bill 158, specifically schedule B, section 26, clause 1(a).

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Shaw. We have about six minutes. That's two per party. This time in the rotation, we'll start with the Liberal Party. Mr. Zimmer.

**Mr. David Zimmer:** If there were to be an amendment that covered the following points: people not residing in Ontario can use foreign designations, and there are exceptions for both residents and non-residents where foreign designations would be available in certain circumstances, such as presenting at a conference and on a resumé for job interview purposes. What's your reaction to that?

**Mr. Colin Shaw:** Again, as a fraud examiner, I would like to see that actually before me as a presentation, consistent with, I believe, the argument made here by Mr. Kormos. I would believe that would be more appropriate to go through my governing body, which would be CIMA.

For me, as long as it is consistent across all those avenues where an individual has the ability to express their professional accounting designation—and not limited to resumé, not limited to conference speaking, but also on business cards and email signatures—I think that would be a move in the right direction. But again, I would certainly reserve any final answer in terms of actually seeing a proposed amendment.

**Mr. David Zimmer:** Thank you, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. The Conservative party: Ms. Elliott.

1000

**Mrs. Christine Elliott:** Thank you very much, Mr. Shaw, for a very cogent presentation. Like you, I'm all about the evidence too.



For the life of me, I can't understand why we have this clause in this piece of legislation, because you've very clearly demonstrated that there really is no issue here in terms of public protection. So I would certainly urge the government members of this committee to speak to Ms. Papatello about her recent experience and to remove this barrier, which is causing unnecessary international concern. I think we should be able to deal with this fairly quickly and easily.

**Mr. Colin Shaw:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** On to Mr. Kormos.

**Mr. Peter Kormos:** Thank you, sir. This wasn't a contentious bill. This bill was almost going to pass on a nod, probably second and third reading in one day. Thank goodness that people in the profession brought to our attention the fact that the government had launched this assault on foreign-trained professionals. For the life of me—Ms. Elliott, help me, and correct me if I'm wrong. How does it help to say that if you aren't resident in Ontario—maybe I misheard Mr. Zimmer—you can use this post-nominal?

The advocacy here is on behalf of people who live in Ontario, who chose to live here; who are foreign-trained, who have a credible, legitimate, bona fide designation—so far, we've been talking about via CIMA. So how does telling people who aren't resident in Ontario—what, tourists? People who attend an annual conference in Toronto or Windsor? That's—I was going to say "stupid." It's not stupid; it's dumb. How does that help? How does that proposed amendment help the people who live in Ontario? If it does, tell me, and I'll be more than prepared to change my mind, because I'm flexible in that regard.

**Mr. Colin Shaw:** No comment.

**Mr. Peter Kormos:** I can be persuaded, Mr. Zimmer, but I haven't heard anything yet that comes close to persuading me.

Thank you kindly, sir.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Shaw, for your presentation.

**Mr. Colin Shaw:** Thank you, Mr. Chair. Thank you, honourable members.

#### MS. REMEDIOS FRANCISCO

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation, Remedios Francisco—I hope I pronounced that properly. Good morning, and welcome.

**Ms. Remedios Francisco:** Good morning. Members of the committee, members of the House, ladies and gentlemen, my name is Remedios Francisco. I'm a member of the Philippine Institute of Certified Public Accountants in good standing and hold a certified public accountant, or CPA, designation. I'm also a proud member of the Society of Professional Accountants of Ontario and hold a registered professional accountant, or RPA, designation. I am speaking here today in opposition to Bill 158, otherwise known as the revised Institute of Chartered Accountants of Ontario act.

When I applied for immigration to this country 25 years ago, the biggest factor I considered in choosing Canada as my new home was the fact that this country is renowned worldwide as a stellar country in which to reside, one that supports equality, administers justice equitably and with due process, and also upholds human rights vigorously. I was told that this is a land of opportunity. What I was unaware of is that I would lose my career as a certified public accountant once I set foot in this country. I came to that harsh realization when I arrived here in Ontario on September 25, 1987. I then discovered, to my sorrow and chagrin, that not only was my accounting designation underrated—or, worse still, not even recognized—but so was my university degree as a university graduate with a bachelor of science in business administration and a major in accounting. I fought hard to earn my CPA designation. It saddens me to admit that I had to sacrifice my family in exchange for my career.

The Philippine CPA licensure board examination is not an easy exam to pass, and I know that there are individuals in this room who can fully attest to that. I endured blood, sweat and tears. I know that this sounds like a whining Pollyanna, but that really is the plain and simple truth. We were tested, filtered, retested and filtered yet again, and went through needle holes to obtain our professional accounting designation. I believe that the same holds true for all the other foreign-designated, underrated professional accountants.

The compliance requirements, competency tests and the code of professional ethics we had to adhere to in order to maintain good standing with our licensing bodies were in no small measure beneath those which the ICAO imposed on its members. Why not conduct the due diligence on these for yourself? I am fully confident that you will be truly impressed with the calibre and credentials of the foreign-designated, underrated professional accountants that have migrated to this country.

Two weeks after I arrived with my family in Toronto, an employer informed me that they were unable to consider my application for employment because they were looking for somebody with so-called "Canadian experience." What a silly employer. I had been a state auditor for more than seven years at the Philippine Commission on Audit when I left the country.

In Toronto, I was relegated to a lowly accounts-payable clerk at one of the fine hotels on Front Street when I arrived here because this government would not assign due recognition to my foreign professional accounting qualifications. At that time, I had no option because I needed a job to support my three young children I brought here with my husband. From the moment we arrived, we have been productive members of this society.

Incumbents of this government have come and gone with an ongoing promise that a unified accounting act recognizing foreign accounting designations is in the works and that, in the foreseeable future, our foreign, underrated accounting designations will eventually be fully recognized.



For the past 23 years, nothing has happened, and now this: Bill 158. This bill not only further discriminates and alienates qualified foreign professionals like myself from fair competition; it also prevents us from earning a decent living and deprives us of our sense of self-esteem and dignity.

I tried to obtain a CA designation in the past, but ICAO registration rules and regulations precluded me from attaining this most coveted professional accounting designation. The institute at that time refused to accept me as a student because I had to be an employee of one of the prescribed ICAO firms. I sent hundreds of job applications to many different CA firms across the province but none were willing to hire me because, as they put it, "They were only hiring currently registered CA students." This was a Catch-22. How could I proceed to obtain a public accounting licence when neither the CA firms nor the ICAO were willing to afford me the opportunity?

I did everything humanly possible by returning to the university level and registering for Canadian business law and Canadian income tax courses, both individual and corporate, to equip myself with the knowledge and competence to serve the public well in a capacity here as a professional accountant. I should not have been put through this painstaking process because I already was a licensed, foreign-designated professional accountant when I arrived here and should have been granted full accreditation without the necessity of undertaking another series of back-breaking and mind-blowing examinations.

I thank God that there are associations like the Society of Professional Accountants of Ontario which provided myself and many other members of the society with an opportunity to obtain a prestigious, professional Canadian accounting designation. We are subjected to the same rigorous compliance requirements, competence levels, code of professional ethics, professional development, peer review and mandatory insurance requirements as are the members of the oligopolists.

Bill 158 is a slap in our face. It tells me, and everyone else who possesses a foreign accounting designation, that we are inferior, which is absolutely unfair, unfounded and completely discriminatory.

Why is my foreign professional accounting designation not recognized here? I thought that this country is adopting and adhering to international policies and standards. Whatever happened to the incessant rhetoric about multiculturalism and diversification? Why are our rights to practise our profession being violated in a country where there were supposed to be the highest standards of human equality?

1010

I take extreme pride in being a practising accountant for the past 22 years, providing accounting and income tax services for individuals, small and medium-sized businesses, not-for-profit and charitable organizations that cannot afford to and refuse to pay the excessive and unreasonable fees being charged by members of the big

three oligopolists. My retention rate is high because I have several clients that have been with me for the past 20 years. They have referred me to their relatives, friends and acquaintances, who have in turn referred me to others. I believe the reason for this is that they are satisfied with the service I provide and they saw and appreciated my competence and experience in the disciplines of accounting and income tax. They are what you may refer to as the happy and satisfied customer.

Bill 158 spells an even more powerful oligopoly in the accounting practice sector, which, in my opinion, is exactly what the citizens of this country wish to avoid. We have won the oligopoly against telecommunication services and those in other industry sectors, and now I strongly believe that we should do our best to terminate yet another increasingly more powerful oligopoly in the works by modifying Bill 158 to include and provide an equal recognition for foreign accounting designations obtained by immigrants before they arrive in this country. Then, and only then, can we call ourselves proud to be Canadians.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation, Ms. Francisco. We have just under five minutes, so we'll start with the Progressive Conservative Party and then roughly try to use the five minutes, split it up two minutes each or one or two minutes per party.

**Mrs. Christine Elliott:** Thank you very much, Ms. Francisco, for your presentation. It's not really a question but just a comment that your presentation really highlighted in a very personal, individual way some of the barriers that people coming to Canada from different jurisdictions as professionals face. I think that you're right: We talk a lot about wanting to make those changes and now we have an opportunity to really do something significant to remove that barrier in the accounting profession. So I truly hope the government members have taken note of your comments and will do whatever they can to seek out that opportunity and make the changes that we need to make.

**Ms. Remedios Francisco:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** To the NDP. Mr. Kormos.

**Mr. Peter Kormos:** Ms. Francisco, yours was a particularly powerful presentation, and let me tell you why. There are the KPMGs of the world and along that continuum. Those are the big, international firms that occupy whole towers, never mind one or two floors of a tower. Then there are the single practitioners from any number of parts of Ontario who do as you do: work for non-profits and charitable organizations. I suspect that your fees with those clients reflect the fact that they're non-profit and charitable. You probably do a lot of pro bono work, I'm guessing. So thank you. It's important that individuals take the time like you did to come here and share your views about this particular bill or any others. It helps me overcome some of my occasional cynicism. I appreciate that very much.

**Ms. Remedios Francisco:** Thank you so much for your time.



**The Chair (Mr. Lorenzo Berardinetti):** We'll just go over to the Liberal Party. Any questions? Mr. Moridi.

**Mr. Reza Moridi:** Thank you, Ms. Francisco, for your deputation and also for your presentation, sharing with us your own personal experience. As an immigrant to Canada myself and having foreign designation, I can see what you've been going through. I have a foreign designation from the UK in the engineering profession, so I went through a similar experience.

My comment is that being a professional accountant certified in another country coming to Canada, of course the accounting laws, the tax law and related laws in every country—in every province, even, in our wonderful country, Canada—are different, one from the other. You may know that for the profession, and of course you do. But when it comes to application of the profession in related to rules, regulations and the laws related to your particular profession, particularly in accounting, which is a very sensitive and important profession, how would you see this process in terms of following the rules, regulations and laws in that particular province for a person who knows the profession but the laws of other jurisdictions when that person comes to Ontario?

**Ms. Remedios Francisco:** My suggestion would be: Have us be supervised by, say, a CA. Have us be supervised by somebody who has the designation here to make sure that we are doing the right things, that we are interpreting the law and whatever it is that is in this land that we have to adhere to.

Give us supervision, something that would tell us what it is that we need to do and what it is that we need to learn here, not going through a series—those exams are very difficult. I gave up my kids—I don't want to cry here—just so I could get my designation. I had to put them aside, send them to my in-laws, because I had to study and pass my exams.

For me, my suggestion here is: guidance, supervision, somebody who possesses the designation here to supervise us, those who are coming here, just so we know and just so we are aware. Accounting across the world, across the universe, is the same. It's just that the policies, the regulations and the rules are different, but accounting principles and procedures are basically the same everywhere.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, that pretty well concludes the time. Thank you for your presentation.

**Ms. Remedios Francisco:** Thank you for your time.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Francisco.

This committee has finished hearing its morning deputations, and we stand recessed until 2 p.m. this afternoon.

*The committee recessed from 1016 to 1404.*

#### BRITISH CONSULATE GENERAL, TORONTO

**The Vice-Chair (Ms. Leeanna Pendergast):** Now that we're all here, we'll call the meeting to order, please. Welcome to the Standing Committee on Justice Policy.

We have our first presenter, the British Consul General, Jonathan Dart. If you could come forward, please.

We welcome you. You have up to 15 minutes for your presentation. The remainder of the time will be shared equally among all three parties. We would ask that you state your name and organization for Hansard, please.

**Mr. Jonathan Dart:** Jonathan Dart, British Consul General in Toronto and director of UK Trade and Investment for Canada.

First of all, I'd just like to thank the chairman and the committee for inviting me here today. I think it's an indication of a strong democracy when you can listen to the representations of a representative of a foreign government in determining your important piece of legislation. I have to offer the committee an apology: I need to dash to the airport immediately following my presentation. The Foreign Secretary has asked heads of missions across the world to be at airports where there are stranded British nationals to help out, and I would be making a big mistake if I was to go against that.

First of all I will, as recommended by David when I met him before, read my proposed amendment into the record. My proposal is that we replace the draft text for section 26—that's in schedules A and B—and section 27 in schedule C with the following text: "No individual or corporation shall hold themselves out as an accountant"—chartered accountant, CGA or whatever—"if unqualified to do so, regardless of whether they provide services as an accountant to any individual or entity."

In explaining the background to this, I'll just set out why the British government is interested in this issue at all. Obviously, we have in mind the interests of the two major international accountancy bodies, the ACCA and CIMA, both headquartered in London. The UK is effectively their host government, so we have their interests at heart. But also, I would say that we have the interests of the Canadian economy at heart. You might ask, "Well, is he being sincere there? Surely he's interested in the UK economy above all." Well, the UK has \$54 billion of investment tied up in Canada, most of that in Ontario. We have a particular interest in seeing the Ontario economy and that of Toronto thrive, and I'll explain briefly why I think the formulation of the existing section 26 is a move in the wrong direction on that point.

I think for a modern knowledge economy to thrive, it has to be open. I was impressed to read of Dalton McGuinty's commitment to Open Ontario in the recent throne speech. He said, under investing in financial services, that the "government ... understands that the bedrock of our province's economy includes one of the strongest financial services industries in the world.

"Canada's banks—based here in Ontario—are widely recognized as the soundest in the world.

"Toronto is ... North America's third largest financial centre...." Your government is working with the Financial Services Leadership Council to support the industry and create a strategy to make Toronto one of the world's elite financial centres.



We, the British government, very strongly support that. I think it's essential to the future of the Ontario economy that it is open and that it acts as a beacon for world financial services. We don't see it as making competition to London, which is already a huge centre for global financial services; we see it as complementary.

I've spoken to a number of people who are involved in that effort to globalize the Ontario and Toronto economy: Lou Milrad of the Greater Toronto Marketing Alliance, Renato Discenza of Invest Toronto, and in particular, Janet Ecker of the Toronto Financial Services Alliance, who will be playing a major role on the Financial Services Leadership Council to which the Premier referred. All of those people believe that Ontario should be open to foreign professionals in the knowledge economy. They all believe that restrictions on the operation of foreign professionals are not necessary—in fact, that they are detrimental not only to the health of businesses in Toronto but to the accountancy business in general.

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In looking at the way we do things in London, how have we managed to make London such a successful centre for business services? Well, we have no restrictions at all. We do not prevent people from sourcing any services they like in the UK.

If I take an example of a Canadian company, Research In Motion, who make the BlackBerry, they have set up in the UK and have grown to getting on for 1,000 employees. I'm sure the Vice-Chair is very familiar with that company in her riding. One of the reasons that they employ so many people in the UK is because they run their Europe, Middle East and Africa operations from the UK. The reason they run them there is, if they need a Turkish chartered accountant in the UK, they can find a dozen just like that.

The reason is that there, they can advertise. They can provide services to global companies. Of course, it's not just Turkish; that's an example. Chinese, Korean, Singaporean: They're all there. They're allowed to operate freely and market their services. Global companies want that sort of service; that's what they want.

I'm afraid that the thinking behind this piece of legislation seems to be, "Well, if we can protect a little piece of Ontario for the professional organizations here, then that's a good thing because if we get too many others coming in, it's going to confuse the world and possibly act as a threat to the business here." I really do not believe that's the case. I really believe that if Toronto is open and thrives and welcomes in global businesses offering a range of global services, that will benefit all accountants in Ontario, including the ICAO, the CGAs and CMAs. I genuinely believe that they would benefit from a liberalization of this particular sector.

I'm a great believer in simplicity. That's why the amendment which I read out is that long, and the piece that it replaces is this long. Basically, what I'm saying in this amendment is, let's not get wrapped up in all the detail of the CAs and what you can and can't say when

and where. Let's just concentrate on the issue, which is protecting the consumer from deception.

I don't believe, frankly, that consumers out there are confused. We don't find that in the UK, despite the fact that we have a huge multiplicity of designations. Consumers of chartered accountancy services in particular are a pretty astute bunch. They do their research. They're spending a lot of money on these services, and they make sure that they check out the qualifications of the people they're using. But you have to protect against deception, and that's why I'm arguing: Focus on people who hold themselves out to be qualified in Ontario, and make sure that the law focuses on them. You cannot pretend that you are qualified in Ontario if you are not qualified in Ontario. Let's leave aside the complicated details of who does what where.

You might think, "Well, we still need to protect the consumer"; you don't accept what I'm saying about the lack of confusion. I think you have to then balance the risks. There are risks in tying up or limiting the market, not only in terms of the development of Ontario but also in terms of trading relationships with other countries. We are engaged, as the UK, in the very exciting comprehensive economic and trade agreement negotiations between the EU and Canada. There is a big chunk of those negotiations which concerns mutual recognition of qualifications. We're hopeful that we'll make a lot of progress on that. I think if the bill were to be passed in the form it is at present, you would find yourselves back here in a year's or maybe two years' time having to unpick it, because the federal government would be pressuring you as part of the liberalization of the mutual recognition of qualifications chapter of the CETA.

As I said, you may reject what I say. You may say that, despite everything that I've said to you today, you need to protect consumers from confusion and that you're prepared to take the risk. I would say that you'll hear from others today a number of very reasonable compromise options. I don't think they're necessary, nor do they, but we're reasonable people and would present reasonable options. If, then, you were to stick to the existing formulation, it would be very difficult to reconcile that with protestations that you are an open economy and—please don't take this as a threat or anything—I think that would be noticed in Europe. I genuinely think that that could have consequences for the tone of the mutual-recognition-of-qualifications negotiations that will be taking place in due course.

I'll wrap up there. I think this will go on. Certainly, my government is very focused on this issue. We think it's a bellwether, really, for Ontario's reputation for being an open—is it really "Open Ontario" or is it "Open Ontario But"? I think that's a crucial question which you have to resolve today. It might seem a very minor point, but I think it's an indication of the direction of travel of Ontario. Is it towards more openness, or is it protecting what you've got and not taking the opportunities of globalization?

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, Mr. Dart, for your presentation. We have



about four minutes for questions. If we want to rotate, it's about a minute and a half each. We left off with the third party, but I'm getting the fingers that we're going to go to questioning with Her Majesty's loyal opposition.

**Mrs. Christine Elliott:** Thank you very much, Consul General, for being here with us today. We appreciate the international perspective that you're bringing to the table. I think it gives us all some excellent food for thought as we reflect on the amendments that we will be bringing forward. So thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Kormos.

**Mr. Peter Kormos:** A very persuasive message that you've delivered, and we should be cognizant of our history as a former colony of Britain.

**Mr. Mike Colle:** We will never forget that.

**Mr. Peter Kormos:** I've not forgotten it. But she still is our Queen.

Thank you, sir.

**The Vice-Chair (Ms. Leeanna Pendergast):** Comments from the government?

**Mr. David Zimmer:** Thank you very much for taking the time to present and walk us through your point of view on this. Good luck at the airport.

**Mr. Jonathan Dart:** Thank you. I'll need it.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much.

#### SOCIETY OF PROFESSIONAL ACCOUNTANTS OF ONTARIO

**The Vice-Chair (Ms. Leeanna Pendergast):** Next we have the Society of Professional Accountants of Ontario. Christopher Matthews and William Nichols, please come forward. Welcome, gentlemen. Thank you for being here with us today. You have up to 15 minutes for your presentation. If you could please state your name and your organization for Hansard before you begin.

**Mr. Chris Matthews:** Thank you, Madam Chair. I am Chris Matthews, with the firm Fraser Milner Casgrain. I'm here to assist as counsel to the Society of Professional Accountants of Ontario. Mr. William Nichols, who is next to me, is the president of the society.

I have handed to the clerk this light-green-covered copy, which is the outline of the submission today and also will serve as the written submissions to be filed by the society.

Thank you for the opportunity today to speak to you.

The society has two primary objections or comments to Bill 158. The first—and this is an ongoing discussion that the society has with the government—is that this is yet another step in the institutionalization of the three, and only three, accepted and recognized accounting bodies in the province. The society will ask this committee not to wholesale-change the law to add another act to recognize the society but to make a recommendation that the government forthwith take initiative to prescribe by regulation other designated bodies in order to open the profession to other organizations.

Secondly, the objection to the bill, which I understand a number of people before you will be commenting on, is that it prevents qualified, competent accountants from using legitimate designations obtained in other jurisdictions in Ontario, even if those designations are used in tandem with an Ontario designation.

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First, let me say something about the society. It is a long-established accounting body. It has high educational and professional standards. It is a continuation of the Institute of Accredited Public Accountants of Ontario, which was incorporated in 1947. It has approximately 400 members in Ontario and is affiliated with approximately 400 more in Alberta and the Atlantic provinces. It does award a designation, the RPA, which stands for registered professional accountant. That is a registered certification mark under the Trade-marks Act.

As I mentioned at the outset, for many years, the society has been asking the government of Ontario to provide it with equal treatment under the law, and that means equal treatment in recognition that the government has given the three other accounting bodies: the CAs, the CGAs and the CMAs. This bill and the regime that is going forward is an example of the marginalization of the society and other accounting bodies. It is an institutionalized oligopoly that the three designated bodies, under the Public Accounting Act, 2004, have and continue to have.

I have attached in the green binder two letters from 2005 in which the society has asked—and these are examples of the society's efforts—to be considered as a designated body. Since 1995, the society participated in the government task forces and investigations concerning the reform of public accountancy. But despite indications from the Daniels commission that there would be other designated bodies in the future and despite indications from David Zimmer, parliamentary assistant to the Attorney General, as he was in 2005 and still is, that has not occurred. In the letter that I have attached at tab 1, there is great detail of the educational standards and examinations that the society requires of its members, standards that meet those of the other designated bodies. In fact, a comparison of the courses that the CMAs, CGAs and RPAs have is given in annex A.

At tab 2 is Mr. Zimmer's response of May 13, 2005. In that letter, Mr. Zimmer states that the government at that point had not yet turned its attention to the criteria for designating anyone else as a designated body under the Public Accounting Act, that it was focused on "getting the new system up and running," and that there was "little chance of any policy about new designated bodies in the next year or so." A year or so from May 2005 would have put us into May 2006, and we're almost four years now after that. Yet there has still been no move towards naming new designated bodies. Section 42 of the act specifically contemplates that the government may prescribe other designated bodies.

I ask this committee to ask the government: Does it intend to open up the profession to other bodies or does it



intend to limit it to these three only? What we have with Bill 158 is not a more open profession, but a restriction and a closing of the profession. The three designated bodies are given additional rights, additional recognition, fresh statutory powers and a monopoly on their professional designations.

It's interesting to note that in the same letter of May 13, 2005, Mr. Zimmer says at the bottom of the first page, "Giving a monopoly to a professional title, enforceable by prosecution, is a dramatic use of public resources (the criminal courts) in a private interest. Private disputes are generally left to the civil courts, where property rights in titles, such as your certification mark under the Trade-marks Act (Canada), can be enforced."

It appears, from the provisions in section 26 of each of the appendices, that the government has changed its mind on this point or it simply desires to allow this dramatic use of public resources to be in the hands of the three designated bodies only. If the latter, the result will be that these three designated bodies will be in an excellent position to eliminate or at least restrict any competition.

I'm not going to suggest that the Society of Professional Accountants of Ontario has the volume of members that any of the three designated bodies do, but it is a bit of a Catch-22 to deny the recognition of being a designated body to the smaller organizations because, of course, it is difficult for them to grow and attract members without the recognition, without the ability to say to potential members, "Yes, we are recognized by the government of Ontario as a designated body and a regulated body under the laws of Ontario."

The society is an organization that educates and qualifies accountants who are new to the profession. It also welcomes new Canadians who bring with them accounting expertise from other jurisdictions. It examines their qualifications and experience and requires that they write qualifying exams.

It also recognizes, however, that along with the RPA designation, a member may wish to continue to use the designation he or she earned in another jurisdiction, particularly when marketing themselves to Canadians who come from that same community or jurisdiction and would recognize the jurisdiction.

For instance, one sees in the letterheads and business cards of people in the medical profession many of the designations and fellowships that they have obtained from other jurisdictions, and this is not confusing. In fact, it's very helpful for anyone who is considering going to that person to know what their background is in a snapshot such as the designations after their name.

It's the government's duty, I submit, and in the public interest, to protect the smaller players in the market and to increase competition, and it's the government's duty to allow the public to have as much choice as possible when deciding who to retain as an accountant. It is also in the public interest to allow accountants themselves as much choice as possible when deciding to join a professional body.

I understand that earlier today you heard from Remedios Francisco on the difficulties she experienced

coming from the Philippines with a certified public accountant designation and the barriers she faced in obtaining a Canadian designation. She is a member of the society and received an RPA. Nonetheless, she is handicapped by the fact that she is part of an organization that the public does not see as a recognized and regulated body.

In my submission, Bill 158 is contrary to the spirit of the Fair Access to Regulated Professions Act, which government passed in 2006. That act, at least in part, was designed to assist someone like Ms. Francisco or other new Canadians in obtaining an Ontario accounting designation, but when the CAs, CGAs and CMAs are the only organizations to which that act applies, it has the result of channelling people to only those three organizations.

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In the United Kingdom, there are approximately 13 accounting bodies. Six have the status there as recognized qualifying bodies, which is similar to being the licensed bodies that only the CAs are here. Nine others, or nine including those, are recognized as reporting accountants, which, in my submission, are closer to being considered as designated bodies.

The SPAO takes the stance that immigrants to Canada who are members of one of the recognized qualifying bodies or reporting accountants are not required by the society to take the prerequisite courses that they would require a new person studying accounting to take; they must just take the mandatory accreditation examinations, which, as would be expected, concentrate on what a qualified accountant needs to know to practise in Ontario.

But Bill 158 grants a monopoly on the designations and is contrary to what was said in the throne speech of this government very recently. In fact, in the second reading debate, Mr. Zimmer referred to the Open Ontario policy, but Bill 158, in my submission, is contrary to that policy. It doesn't open up the profession; it just opens up to prosecution those accountants who may wish to use designations obtained elsewhere.

Merely proposing amendments as those that were suggested by the Attorney General's office on April 7, and those amendments that would allow very limited purposes for the use of other designations, such as when a foreign resident attends a conference or is responding to a RFP, in my submission, is meaningless. That does not address the situation of those who are working and living in Ontario and marketing their services.

It was said in the second reading debate that recognizing the CGAs and CMAs in the way that Bill 158 does would open those organizations up to public scrutiny. That's a good thing. The society agrees with that and would welcome public scrutiny. But it and the other organizations, whether they're homegrown like the society or affiliates of international organizations, should be entitled to the same rights and obligations and the same scrutiny as are the CAs, CGAs and CMAs. This is particularly the case for a profession in which members of the public are looking for assurance that the professionals they hire to examine their financial affairs are both regulated and accountable.



**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, sir. You've used up the 15 minutes, so there will be no time for questioning, but we want to thank Mr. Matthews and Mr. Nichols for their presentation.

**Mr. Chris Matthews:** Thank you.

**Mr. Peter Kormos:** Chair, if I may? Perhaps legislative research could put together a short briefing note on the SPAO and its history—1947, I think, is indicated as the date of its origin—who its constituency is and where it fits into the matrix of accounting bodies.

**Mr. Chris Matthews:** We'd certainly be pleased to provide information that would help in that exercise.

**Mr. Peter Kormos:** Thank you kindly.

**The Vice-Chair (Ms. Leeanna Pendergast):** Absolutely; your request is noted, Mr. Kormos.

Thank you very much, gentlemen.

#### CERTIFIED GENERAL ACCOUNTANTS OF ONTARIO

**The Vice-Chair (Ms. Leeanna Pendergast):** The next presentation: We have the Certified General Accountants of Ontario and Mr. Doug Brooks. Please come forward.

Good afternoon, gentlemen. You have up to 15 minutes for your presentation. We would ask that you identify yourselves and state your names for Hansard, please.

**Mr. Doug Brooks:** Thank you, Madam Chair. I'm Doug Brooks. I'm the chief executive officer of the Certified General Accountants Association of Ontario. With me on my right is Bernie Keim, who is our vice-president of member services, and on my left is Ted Wigdor, who's vice-president of government and corporate affairs. I would like to thank the members of the Standing Committee on Justice Policy for granting the Certified General Accountants of Ontario the opportunity to speak today.

If you will indulge me, I would like to tell you a little bit about us and about our members and students. I represent the largest affiliate organization of CGAs in the world, comprising 20,000 CGAs and 8,000 aspiring professional accountants currently enrolled in the CGA program of professional studies. We are truly an international body: CGA Canada represents over 73,000 members and students in Canada as well as Bermuda, the nations of the Caribbean, the People's Republic of China and Hong Kong. CGAs can be found in over 70 countries around the world. We are active members of the International Federation of Accountants and many other international accounting organizations.

Ontario's CGAs work in all sectors of the economy, from the CEOs of internationally recognized corporations such as Fiat, Pitney Bowes and ClubLink Enterprises, to the practitioners who provide financial and accounting advice to individuals and businesses in small towns across Ontario.

We have mutual recognition agreements—what we call MRAs—with international accounting bodies such as the Association of Chartered Certified Accountants, the ACCA; CPA Australia; and CPA Ireland. MRAs are agreements that establish a clear framework to allow each body's members to obtain designations in other countries. The process typically includes the completion of certain courses to gain local knowledge, such as tax and law. This allows those with international designations to become a member of an accounting body that has market awareness, relevance and, most importantly, accountability to the public in that jurisdiction.

CGA Ontario is a leader in supporting internationally educated immigrants and their transition to a meaningful professional accounting career in Ontario. We partner with and support organizations that have similar objectives in Ontario, such as the Chinese Professionals Association of Canada; TRIEC, who are also appearing here today; MicroSkills; Skills for Change; plus many others.

Some statistics for you: 40% of our students entering the program come to us from other countries, so that's talking about access. Typically, over 60% of our new members—those who are just becoming CGAs—speak at least one other language, and of those new members who speak another language, over 40 languages are represented. So as you can see, the numbers reflect our commitment to welcoming and enabling immigrants who wish to pursue an accounting career in our province. Our membership base is truly representative of the ethnic diversity of Ontario.

CGAs have been a critical part of the Ontario economy for more than 90 years. As an organization, we were incorporated as CGA Ontario by provincial charter in 1957 and have operated since 1983 under the CGA Ontario act, a private act enacted by the Legislative Assembly of the province of Ontario.

As a self-regulating body, we take our responsibility to protect the public very seriously. You should know that we already have a transparent discipline process to address professional misconduct and competence issues, and have had this process in place for over 40 years. CGAs are governed by a code of ethical principles and rules of conduct, a code designed to ensure the protection of the public. The code states that CGAs have a fundamental responsibility to safeguard and advance the interests of society. This means that a CGA must act with integrity, objectivity, trustworthiness, and shall be prepared to sacrifice their self-interests for the good of society. To further protect the public, the association has a rigorous complaint process that is described and available on our website or by contacting the association. All hearings are open to the public and disciplinary findings are published.

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If passed, this bill will result in the province's three professional accounting bodies operating under public bills with similar governance frameworks and measures, ultimately to enhance the protection of the public. Bill



158 clarifies the authority and increases the accountability to the public of Ontario's three professional accounting bodies. It will provide the bodies with more effective enforcement, inspection and disciplinary measures. It further protects the public by providing penalties for the improper use of the three accounting designations.

I'd like to address the concern that has been expressed about section 26 of this bill. It has been suggested that the intent of this section is to restrict the use of foreign designations. It is intended to restrict the use of any designation, not just foreign designations, that could confuse the public about the regulatory oversight of that individual. I'd like to walk you through an example to demonstrate this.

Let's assume that we have an individual, resident in Toronto, who decides to call himself a Canadian general accountant and offers his services to the public. That person is not part of any regulating body. That person may or may not have any formal accounting training or education. We don't believe that the public should be expected to know the difference between one of our members, a certified general accountant, and this so-called Canadian general accountant. There is clearly a world of difference when it comes to the protection of the public. This may sound hypothetical, but each year we receive calls from an Ontarian who has engaged the services of an accountant that he or she assumed was a professional, regulated by an accounting body in Ontario. Unfortunately, there is nothing that we can do to help. Clearly, it's not in the public interest to allow this confusion to continue.

Madam Chair and members of the standing committee, CGA Ontario operates under a private bill that is more than 25 years old. It's time for us to enhance the protection of the public by passing Bill 158.

On behalf of the Certified General Accountants of Ontario, we urge you to support Bill 158. Thank you for your time.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Brooks, for your presentation. We have about six minutes left, which leaves us two minutes for each party in the rotation. We'll begin with the third party and Mr. Kormos.

**Mr. Peter Kormos:** Very briefly, I'm pleased that CGAs are now part of the accounting mainstream in Ontario. I remember the day in the Legislature very well when Howard Hampton tricked the Conservative government, Chris Stockwell, into calling the legislation, which was never going to be called for third reading. That government's members were going to milk both the CAs and CGAs for campaign donations one more time before letting that legislation pass, maybe get two kicks at the can.

What I find truly remarkable was, I remember how sympathetic we were to your plight here at Queen's Park. You weren't being treated fairly, and it took a long time but we remedied that. We've got some other people appearing in front of us now who say that they're not being treated fairly by this legislation. You know who

they are. We had people from the Chartered Institute of Management Accountants, CIMA; they say they're not being treated fairly. We just heard from the Society of Professional Accountants of Ontario; they said they're not being treated fairly. That triggers the same sympathy that I had when you said you weren't being treated fairly. Why shouldn't I be as sympathetic to them as I was to you, as CGAs, when you were fighting to get into the mainstream of the accounting profession? Why not?

**Mr. Doug Brooks:** I think the original reference that you have to our fight for our rights was about public accounting.

**Mr. Peter Kormos:** Yeah.

**Mr. Doug Brooks:** I think if we look at Bill 158 compared to where we are today, there are no limitations on employment opportunities for those carrying those designations. In fact, going back again to my point on section 26, the issue is about the use of designations. I don't see anything in this bill that restricts that person coming in and working and gaining employment. In fact, I think our numbers certainly indicate our support of that and their ability to have that employment and gain that employment here.

**Mr. Peter Kormos:** And that means using the designation ACMA or FCMA, right? That would only be fair.

**Mr. Doug Brooks:** Sorry; I didn't understand your question.

**Mr. Peter Kormos:** That means using the designation ACMA or FCMA after their name. That would be fair, wouldn't it, if they're CIMA?

**Mr. Doug Brooks:** What has been provided for—if the reference is around gaining employment or the use of the designation, not in the engagement of the public or public services—again, to avoid the confusion that I described.

I think we should be clear, especially from our perspective. This isn't about international or foreign credentials. Using the example that I did around somebody calling themselves—there's nothing stopping them from calling themselves a Canadian general accountant and holding themselves out that way. That, I think, is a big issue for the public. It's confusion.

**The Vice-Chair (Ms. Leeanna Pendergast):** There are two minutes for the government questioning.

**Mr. David Zimmer:** Thank you very much for taking the time today to present.

What one thing do you think the committee should keep in its mind when it's considering this legislation?

**Mr. Doug Brooks:** I think the utmost is around protecting the public, and I think this bill enhances the protection of the public as it relates to our profession.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you. There are two minutes for the official opposition. Ms. Elliott.

**Mrs. Christine Elliott:** I'd also like to thank you very much for joining us today.

With respect to the issue of the protection of the public, you may have been here for some earlier presentations that indicated that particularly in Britain, people



are able to openly use their designations. They all practise collaboratively, and there doesn't seem to be any public confusion or detriment to the public interest. I'm just wondering why Ontario would be any different than the situation in Britain.

**Mr. Doug Brooks:** I can't speak to Britain. I don't pretend to know what the public situation there is or the structure of the accounting environment, just like ours is wrapped around the Public Accounting Act as well, so I think it really depends on the nature of the services being offered and who they're being offered to.

But I come back, again, to the confusion—and we experience this, as I mentioned, often with consumers who do not understand. I don't think they're well served when there's confusion around accounting designations.

I would suggest, in Ontario, and as evidenced by the number of people pursuing our designation, that we are open for business in this province to internationally educated or internationally trained professionals. There is a clear path.

Again, I credit the parties—ACCA and CPA Australia—that work with bodies like ours to create mutual recognition agreements to facilitate the transition to other countries, and we benefit the same for our members going to another jurisdiction and being able to have a very clear path to gain local credentials through their existing membership. I think that mix already exists within our community, in our profession.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, gentlemen, for your presentation.

#### MR. HIMANSHU SHAH

**The Vice-Chair (Ms. Leeanna Pendergast):** At this point, could Mr. Shah please come forward? Mr. Shah, if you're present, could you please come forward?

Thank you, sir, for being here with us today. You have up to 15 minutes for your presentation, and if you could, at the beginning, please state your name for Hansard.

**Mr. Himanshu Shah:** Himanshu Shah.

Good afternoon, honourable members of the committee. Thank you for providing me the opportunity to present my personal point of view on Bill 158, the Accounting Professions Act, 2010.

As a qualified chartered accountant from India and the entire fraternity of Indian qualified chartered accountants currently residing in Ontario, I am extremely concerned about the far-reaching implications of some aspects of this bill, and I deem it my bounden duty, as the founder chairman of the Toronto chapter of the Institute of Chartered Accountants of India, to convey our grave concerns to this honourable committee. The views expressed today are mine and mine alone.

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In particular, my presentation and objection are focused on schedule C, the Chartered Accountants Act, 2009, sections 27, 28 and 29. More specifically, I will focus my concerns with clause 27(1)(a), which reads as follows:

“27(1) No individual, other than a member of the institute, shall, through an entity or otherwise,

“(a) take or use the designation ‘chartered accountant’ or the initials ‘C.A.’, ‘CA’, ‘A.C.A.’, ‘ACA’, ‘F.C.A.’ or ‘FCA’, alone or in combination with other words or abbreviations.”

Now, I understand that some amendments were proposed last night, which were passed on to me this afternoon. I have not yet had a chance to review them, but at a first glance, I thought they didn't really go as far, so my concerns still stand.

Let me—

**Mr. Peter Kormos:** So the amendments were passed on to you?

**Mr. Himanshu Shah:** Yeah, some amendments were passed on to me this afternoon that were—

**Mr. Peter Kormos:** By whom?

**Mr. Himanshu Shah:** Through—those amendments.

**Mr. Peter Kormos:** Sorry to interrupt. There were some concerns we had this morning. I don't know. This flows from some of the concerns we had this morning. I don't know if Mr. Zimmer recognizes that or not.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Shah, why don't you continue your presentation until we work that through?

**Mr. Himanshu Shah:** Sure. Thank you.

Let me first introduce myself. As I said, my name is Himanshu Shah, and besides my other qualifications, which include a law degree, I'm a fellow member of the Institute of Chartered Accountants of India, which permits me to use the initials “FCA” after my name.

I immigrated to Canada in 1989 and have made Toronto my home for the past 21 years. During this period, from 1990-96, I worked at CIBC in various capacities, starting as an audit manager in the bank's internal audit department; and for 11 years, from 1996-2007, at Deloitte and Touche in their enterprise risk and consulting lines of business.

I was a senior manager at Deloitte. While at the firm, I was introduced to the firm's clients as a CA and used the initials “ACA” on my Deloitte business cards. In 2007, I founded my own advisory business and have been practising as a business adviser and management consultant in the areas of finance, governance and technology, providing services to Canadian financial institutions, telecommunications companies and public utilities.

Let me also give you a background on my professional institute, the Institute of Chartered Accountants of India. The accounting profession in India has been in existence since time immemorial. However, the ICAI as a statutory body was incorporated in 1949 under the act of Parliament, after we achieved independence from Great Britain in 1947. Today, ICAI is the second-largest accounting body in the world. In just over 60 years of our existence, we have over 150,000 members and over half a million students pursuing the CA program in India. With less than 5% of the students passing the examination every year, we have one of the most stringent examination processes known. We have close to anywhere between



700 to 1,000 Indian CAs in Canada, the majority of them in the Ontario GTA. From the debate's proceedings, I understand that the Institute of Chartered Accountants of Ontario, ICAO, which has been in existence for over 100 years, has about 30,000 CAs and about 5,000 students.

Members of ICAI undergo a rigorous three-and-a-half-year practical training and examination program, and after completion of this program, members are admitted as an associate and can use the initials "ACA" after their name. After five years as an associate member in good standing, one can apply to be admitted as a fellow member and use the initials "FCA" after one's name.

Let me assure this committee that in India, we have an accounting profession that is nationally regulated that takes a backseat to nobody. It is as good as any in the world, if not better. I passed my CA in 1984 and was admitted as an associate the same year and a fellow in 1989.

You will all agree that it is a proud achievement to be awarded this three-letter designation of ACA after more than three years of hard work. However, when I immigrated to Canada in 1989, the year I was admitted as a fellow, to my dismay, the first thing I learned upon landing was that my hard-earned designation was not only not recognized, but also that I had to pursue the program all over again and that I could not even use the initials "FCA" after my name. It was a big disappointment.

That was in 1989. We are now in 2010, where the world has become flat, is hot and is crowded, to borrow from the author Thomas Friedman. The economy today is a global economy. We are living in a global village. In the accounting profession, the adoption of international financial reporting standards, IFRS, is the single most significant development towards globalization and convergence of the accounting profession. Both Canada and India are moving to IFRS-based financial reporting in 2011.

In this context, I find the provisions of clause 27(1)(a) very restrictive. If the objective of the act is to modernize the legislation, then one has to recognize the international mobility of labour and transferability of skills. Rather than putting restrictions on the use of the designation, individuals must be asked to disclose the jurisdiction in which they achieved their designation. Even though I am a resident of Ontario, I continue to be a proud member of ICAI and am governed by the professional code of conduct rules of the institute, which are as strict as those in any developed country.

I have no issues that in order to practise as a CA in Ontario, one would need to be a member of ICAO. However, to restrict a qualified member of an international professional body to display their designation against their name in business cards or even in resumés is utterly unfair and discriminatory.

The initials "ACA" and "FCA" are used by a number of accounting bodies across the world. This includes the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants in Ireland and the Institute of Chartered Accountants of Sri Lanka.

In Canada, the usual initials used by a CA after their name are either just plain "CA" or "FCA." In my over 20 years in Canada, I have yet to come across any Canadian CA who uses the initials "ACA" after their name. So where is the confusion?

The Honourable Christopher Bentley, while introducing the bill in the legislature, said, "I am pleased to introduce legislation that would, if passed, help ensure greater public transparency for the accounting profession while providing their governing bodies with new powers to protect consumers."

I have read the honourable minister's—and his parliamentary assistant, Mr. Zimmer's—discussion in the House, as published on the Ontario Legislature's website, and nowhere are the risks to the consumer identified and how this bill helps in consumer protection, especially by my using the initials "ACA" or "FCA" after my name. Has the government, or the ICAO, for that matter, conducted any survey or have any statistics on the risks and how the consumer has been affected?

There is also some mention in the debate proceedings about "confusion" in the mind of consumers when internationally trained accountants used their designation in Ontario. Again, there is no explanation on what this so-called confusion is all about. Given that there are three accounting designations in Ontario—CGA, CMA and CA—there is already enough confusion, and an average person on the street may not know the difference among these three designations. However, I'm not here to talk about the confusion between the CGAs, the CMAs and the CAs.

My question is: By restricting the use of the initials "ACA" or "FCA" after my name if I'm not a qualified accountant from Ontario, how are we protecting the consumer?

Let me ask you a question: How many average Ontarians use the services of a CA on a day-to-day basis? To get their tax returns completed, Ontarians go to tax preparers like H&R Block or other such other companies or individuals, who are not regulated at all. There are others who provide their services as "accountants," and again, they are neither regulated nor restricted from using the term "accountant." So why is this restriction in clause 27(1)(a) of the bill? This is not about consumer protection, but protecting Ontario CAs by the ICAO.

You would agree with me that generally when one uses services of a CA, they are sophisticated users of the service and would know what they are getting into.

In my opinion, if this bill were to go through in its current form, the internationally trained accountants, such as myself and members of ICAI in Ontario, would be put to a severe disadvantage. They will not be able to indicate either on their business cards or their resumés their hard-earned designation.

You have my business card in front of you, which says, among other things, "ACA" against my name. Now, I should have said "ACA (India)"; however, given that it is not a practice in Canada to use ACA, I simply put ACA without the country. If this bill were to pass, I



would be liable to a fine of up to \$10,000 and other consequences as laid out in schedule C, sections 28 and 29.

However, nowhere on my business card do I hold out as a chartered accountant or as providing CA services. My clients, who are all large Canadian corporations, know exactly what they are getting from me and they are more than happy with that. So where is the risk and confusion?

The online directory Wikipedia defines a business card as, "Business cards are cards bearing business information about a company or individual. They are shared during formal introductions as a convenience and a memory aid." By handing out my business card with my qualifications and designations, my clients and prospective clients know that they are dealing with an educated and learned professional. When I give them my proposal is when they find out more about my experience and qualifications, but the business card is my first point of introduction. To prohibit or restrict me from indicating my qualifications and designations on my business cards, resumés or in any other form would not allow me to truly and fairly represent myself.

As a result, I would like to once again emphasize that the provisions in the section are restrictive, unfair and discriminatory. The issue on hand is that if this bill goes through in its current form, then those internationally trained accountants like myself, who are fully qualified chartered accountants and members of their professional body, would be prohibited from disclosing their qualifications or designations in any form, either on their business cards, resumés or presentation materials, and restricted from applying for jobs as professional accountants, pushing them to look for jobs outside their field. Professional firms may not be able to attract and retain foreign-trained accountants and may not be able to present their staff appropriately to their clients and potential clients.

The consequences, besides the \$10,000 fine, are discrimination based on qualification, as employers may not be inclined to hire foreign-trained accountants or, in the case of existing members, they may not be considered for promotion. Many Canadian public accounting firms hire CAs from their offices in India during the busy season, and this will restrict those opportunities. A pool of talent may not be recognized or available in the marketplace, and other professions may be inclined to follow this path, thus putting additional restrictions on new immigrants to settle in their chosen profession. Tomorrow, the legal profession, for example, may say that I cannot indicate the initials LL.B. on my business cards.

With this background in mind, I strongly urge this committee to recommend that internationally trained accountants be allowed to display their designation, either ACA or FCA, in any form as long as they identify their country of jurisdiction.

In closing, the world today is a much smaller place. Let's not put artificial barriers to free trade and labour mobility. Let's be all professionals and recognize our

professional brethren from different parts of the world. Let the internationally trained accountants be allowed to display their qualifications with a disclosure of the country they come from, for example, "ACA (India)." I would go a step further and say that the professional accounting bodies in Ontario, especially the ICAO, should be directed to simplify the entrance criteria for internationally trained accountants rather than pushing such artificial barriers.

I am certain that the learned and wise members of this honourable committee will take cognizance of the unfairness of the proposed provision and have it suitably amended or removed from the bill. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Shah, for your presentation. You have used up the 15 minutes for the presentation, so we thank you for that and thank you for maintaining your pace; you got through it all and we appreciate it. Thank you for your time.

*Interjection.*

**Mr. David Zimmer:** Madam Vice-Chair, I'd like a five-minute recess.

**The Vice-Chair (Ms. Leeanna Pendergast):** Is that agreed upon?

There will be a five-minute recess. Thank you.

*The committee recessed from 1504 to 1511.*

#### THE TORONTO REGION IMMIGRANT EMPLOYMENT COUNCIL

**The Vice-Chair (Ms. Leeanna Pendergast):** The committee will come to order, please.

The Toronto Region Immigrant Employment Council, if you could please come forward.

**Mr. David Zimmer:** Chair?

**The Vice-Chair (Ms. Leeanna Pendergast):** Yes, Mr. Zimmer.

**Mr. David Zimmer:** I suppose it's something akin to a point of order. The last deputant, Mr. Shah, in effect introduced a document which he described as the government's proposed amendment in this matter. Opposition members quite properly raised an eyebrow about that. I've looked into that, and what Mr. Shah had was—I'll read this.

Sometime yesterday, I understand, from the staff at the Attorney General's office, there was a memo sent out to all of the various stakeholders in the accounting profession here. It advised that attached was the most recent of a contemplated amendment to Bill 158 regarding foreign designations: "Note that our legislative drafter may need to fine-tune some of the language, but we wanted to get you these proposed changes right away. Thank you." And then it sets out a section.

What that document was that Mr. Shah had—as I said, it was circulated to all stakeholders by the Attorney General's office as part of the ongoing consultation process on this file. It's not the finalized amendment, hence it's not tabled before this committee, nor was it in a formal way shared with the opposition members.



Since it has effectively, through Mr. Shah, become a part of this record, we are going to share that with the opposition. I've given both opposition members copies of that. But the clear understanding is that it's a background document which is part of an ongoing process to deal with this issue. It is not an amendment as such.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Zimmer. At this point, we would ask—

**Mr. Peter Kormos:** Please, Chair? Thank you, Mr. Zimmer, for taking that position. I suggest that the Chair would direct that a copy of that document be in fact tabled with the committee so that there's public access to it.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Kormos. I was just going to say that we would ask that a copy of that document be given to the clerk to be tabled, as it's now a public document. Thank you for the clarification, Mr. Zimmer.

Thank you for your patience as we work through our housekeeping details.

**Mr. Peter Kormos:** That was one of the most exciting things to happen all day.

*Interjections.*

**The Vice-Chair (Ms. Leeanna Pendergast):** The Toronto Region Immigrant Employment Council: Thank you for being here. You have up to 15 minutes for your presentation. If there is time remaining, it will be shared evenly among all three parties. We would ask that you state your name and your organization for the Hansard before you begin, please.

**Ms. Joan Atlin:** My name is Joan Atlin, and I'm with the Toronto Region Immigrant Employment Council. I'm the director of programs with TRIEC. With me today are Racquel Sevilla, who's the manager of corporate and stakeholder relations at TRIEC, and Michael Schafner, a partner at the law firm Fraser Milner Casgrain and a TRIEC council member.

Briefly, by way of introduction, the Toronto Region Immigrant Employment Council is a multi-stakeholder council whose members include employers, community organizations providing employment services to newcomers, some regulatory bodies, post-secondary institutions, assessment service providers, labour and partners from all three levels of government. The council is chaired by Gord Nixon, the president and CEO of RBC Canada.

TRIEC's primary mission is to create and champion solutions to better integrate skilled immigrants in the greater Toronto region labour market. To achieve this, we focus on three objectives: To convene and collaborate with partners, creating opportunities for skilled immigrants to connect to the local labour market; to work with key stakeholders, particularly employers, building their awareness and capacity to better integrate skilled immigrants into the workforce; and to work with all levels of government, enhancing coordination and effecting more responsive policy and programs for skilled immigrant employment.

Skilled immigrants, both as labour market participants and as consumers, are key to the economic prosperity of Toronto and Ontario. If they are unable to realize their full potential through meaningful employment, the city and the province suffer.

The proposed legislation represents an important opportunity to support the government of Ontario's efforts and investments to enable the effective integration of skilled immigrants into the Ontario labour market. TRIEC commends the government's efforts in moving the accounting professions towards greater transparency and enhanced consumer protection through Bill 158. However, we are concerned that the prohibitions and penalties in the bill on the use of accounting designations obtained outside Ontario are likely to have a negative impact on the effective labour market inclusion of internationally trained accountants and Ontario's labour market attractiveness.

Bill 158, as originally drafted, restricted the use of foreign designations and did not allow for exceptions. The proposed amendment provided by the Attorney General's office to concerned stakeholders on February 9 proposed several exceptions to this complete prohibition. Those exceptions referred, in particular, to allowing for the use of those designations in a speech or presentation given at a professional or academic conference or similar forum, an application for employment or other private communications related to employment where it was in reference specifically to indicating that their individual background related to the employment sought and for use in a proposal submitted in response to RFPs—so very specific exceptions to that.

We feel that the restrictions create an extremely limited scope within which an internationally trained accountant can use their designations. For instance, it appears to prohibit the use of an internationally obtained designation on a business card or a website, as others have cited. It also appears to prohibit an employer from listing an employee's international designations on any public materials.

Section 2 of Bill 158 states that "this act does not affect or interfere with the right of any person who is not a member of the" three designated bodies "to practise as an accountant." Our concern is that while these restrictions do not directly interfere with the right to practise as an accountant, they do interfere with the right to use accounting designations from outside Ontario or from outside those three bodies to advertise the accounting services which they are, in fact, legally permitted to provide to the public.

The legal restrictions on those accounting services, as we understand them, relate only to public accounting functions. Otherwise, internationally trained or other accountants are entitled to perform accounting services and should be permitted to advertise those.

The proposed restrictions, however, are much more intrusive. If there is a restriction, we submit that the restriction should be limited to the advertising of public accounting services by those not licensed to practise



public accounting in Ontario and should be addressed in the appropriate sections of the act dealing with public accounting.

TRIEC, therefore, respectfully submits that the current bill, which provides a comprehensive prohibition on the use of accounting designations beyond the three named with only several strictly defined exceptions, will be, on the one hand, extremely difficult to enforce and, more importantly, will likely impact negatively on the employment prospects of those with accounting designations from other jurisdictions, without further enhancing the consumer protection objectives of the bill. We suggest that a more effective solution would be to allow the use of internationally trained accounting designations in any circumstance, provided that the issuing jurisdiction is clearly indicated in brackets following the designation, as was suggested by previous speakers. We have provided proposed wording to that effect in our written submission.

1520

While Bill 158, as I said, does not bar the lawful provision of accounting services, it does perpetuate unnecessary barriers to skilled immigrant integration into the labour market. For internationally trained accountants and particularly for more recent immigrants with little or no Canadian experience, being able to display their designations, along with previous work experience and education, is essential in marketing themselves to potential employers and consumers.

Today's labour market has changed. An effective job search does not only mean submitting resumé and proposals, but networking broadly, both in person and online, including distributing business cards and maintaining an online profile through websites: LinkedIn etc. For a self-employed accountant, this also means displaying designations on business cards, letterhead, marketing collateral etc. Under the proposed amendments, both job seekers and self-employed immigrant accountants would have significant challenges marketing their accounting services to clients, services which they are legally permitted to provide.

For employers today too, marketing requires effective online marketing, often including posting employee designations and credentials on corporate websites and other materials. As you heard earlier today, with increasing globalization and the movement of accounting worldwide towards harmonization of standards, employers are looking for international experience. The demand for accountants with expertise, for instance, in IFRS, international financial reporting standards, is only increasing as the 2011 conversion deadline fast approaches for publicly traded companies to be using these standards. When marketing their services to clients in Canada or abroad, firms need to be able to clearly indicate the designations of their employees, whether Canadian or internationally trained.

As members of the committee are well aware, immigration is expected to account for 100% of labour market growth in Canada by next year. Ontario is already experiencing skilled labour shortages in certain key

areas—for instance, the qualified talent that is necessary to strengthen Toronto's position as a global financial centre. A 2009 RBC study calculated that if skilled immigrants were fully able to utilize their skills, personal income in Canada would increase by up to \$13 billion a year.

The government of Ontario has made significant strides in addressing barriers and promoting effective immigrant integration into the labour market through the establishment of the Fairness Commissioner's office and through significant investments in the development and ongoing support of bridge programs and other initiatives for internationally trained professionals. Ontario's accounting regulatory bodies have also made strides in establishing mutual recognition agreements, as we heard earlier, and ensuring that the regulatory process is fair, transparent and accessible to internationally trained accountings.

Bill 158 represents an important opportunity to continue to modernize our approach to reflect current demographics and current labour market realities. TRIEC therefore recommends, rather than trying to identify all the specific circumstance in which international designations may be used—an approach which seems fraught with difficulty—that the bill be amended to allow internationally trained accountants to use, in any circumstances, their foreign designations, with the issuing jurisdiction clearly indicated in brackets. We feel this would in fact enhance consumer protection and transparency, as potential employers and consumers would be clearly informed that the accounting designation cited was not issued by an Ontario accounting body.

At the same time, skilled immigrants and those who employ them would have the tools to effectively promote their skills and training in the local and international market. We believe that this solution meets the government's dual objectives of ensuring consumer protection and enabling the local economy to benefit from immigrant experience and skills.

**The Vice-Chair (Ms. Leeanna Pendergast):** Great. Thank you for your presentation. We have just under two minutes for each party for questioning. We'll begin in this rotation with the government. Mr. Zimmer.

**Mr. David Zimmer:** Thank you very much for your thorough presentation and the materials. We'll go over them carefully.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you very much for your presentation and for the materials that you've provided us with.

It appears that you have been discussing the proposed amendments with the Attorney General's office for some months now and it appears that, while you're moving in the right direction, you're still not there yet. I guess that's fair to say from the comments that you've been making. You really need to see an unencumbered use of the professional designation with the country of origin, and really, nothing else short of that is going to make a difference. Is that correct to say?



**Ms. Joan Atlin:** That's our concern.

**Mrs. Christine Elliott:** Okay.

**Ms. Joan Atlin:** There needs to be a solution that allows people to use their designations, and if including the issuing or conferring jurisdiction would resolve that issue, then that seems the appropriate solution to us.

**Mrs. Christine Elliott:** That seems very sensible to me too. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you. Mr. Kormos?

**Mr. Peter Kormos:** This is becoming a very bizarre case of alphabet envy—well, it is, and quite frankly, it's starting to strike me as getting silly because, at the end of the day, if an employer is hiring somebody, that CV or resumé is going to have the person's educational background and affiliation with any number of bodies throughout the world if, indeed, they're worldly. Again, we're sloppy in this province about identifying who's an accountant, because even Conrad Black, as we noted earlier today, or Bernie Madoff could put up a shingle saying "Accountant"—except Conrad Black can't get back into Canada, because he's not a citizen and he's a felon.

So Mr. Zimmer, this is getting silly. When I look at the succession, the progression of the amendments that are being proposed by the government, the government seems to be caught in a trap and has dug its heels in instead of sitting down and talking, quite frankly, maturely about this with the respective parties. Considering how rational a proposition—because ACA (India) means a whole lot to consumers of Indian background about a person's services, right? It may not mean anything to anybody else, but so what?

So these are valuable things. Heck, you've got real estate brokers and insurance brokers who've got alphabet soup after their names. Nobody knows what the hell those mean, except the assumption is that the longer the list is, the more qualified you are. So for the life of me, I don't even—this committee is starting to get tedious. Because we've had people come forward with reasonable solutions, rational ones—good God. Rational solutions for a government? And the government seems rather more interested in playing this silly bugger game of digging its heels in and moving incrementally with its succession of amendments. If I'm unfair in putting that to you, just say so and I'll hear you, but Lord love a duck, Chair, this is—good God. It's frustrating. You understand my frustration, don't you?

**The Vice-Chair (Ms. Leeanna Pendergast):** I hear your frustration, Mr. Kormos, and unfortunately we're out of time, so we can't hear any more at this point.

But we do thank you for your presentation. Thank you very much.

#### MR. MARCUS ABERNETHIE

**The Vice-Chair (Ms. Leeanna Pendergast):** If Marcus Abernethie is here, can Marcus come forward, please?

Thank you both for being here. You have up to 15 minutes for your presentation. The remainder of the time will be shared equally among all three parties. We would ask that you state your names and any affiliation to an organization for the Hansard, please.

**Mr. Marcus Abernethie:** Thank you very much. I've got no affiliations. My name is Marcus Abernethie, and I'm speaking on behalf of several students whom I've assisted with accountancy studies, one of whom is Marty Smith here, to my right. Another is my daughter, who is sitting at the back. They are studying accountancy through the CIMA course.

I'm not here to beat the CIMA drum for them, nor am I here to address the other accountancy bodies or associations who have an interest in Bill 158. Instead, I'm very thankful for the opportunity and privilege to appeal to the government itself, through this committee, because as a Christian I acknowledge government as having authority from God and as a believer in the Lord Jesus, I'm enjoined to be subject to the powers which are above me—and that includes the legislative body which this committee is part of. But this Accounting Professions Act displays what can happen when the government delegates its control to non-government bodies such as associations. That is, when a body comes between me and the government and that body develops a self-serving interest, I and other members of the public suffer. That, I submit, is the result of this bill.

Of course, I'm talking about schedule B, clause 26, which outlaws the display of accounting designations which are not those of the associations who influence this bill. The act, as it reads, effectively sidelines other accountancy bodies and, consequentially, sidelines those people who have already chosen or would prefer to choose a course such as CIMA provides. The choice is reduced as the result of this clause.

#### 1530

CIMA provides opportunities which other accounting groups do not provide. What I mean by that is that this province has a reputation for welcoming minorities and immigrants. It advertises internationally as being an innovative, accommodating place to move to, advertises in *The Economist*, which is the sort of thing read by accountancy types. I'm an immigrant myself. At the moment, people can bring the CIMA qualification with them from the country they left or continue here the studies that they started elsewhere. This bill intends to stop that. CIMA is an international qualification currently recognized in Canada and Ontario. Exams are held here. My daughter has passed two of the five exams, opening qualifications, since she moved here.

Other people moving here—another point—they may have the ability for accountancy but not possess a degree, which is a requirement to enter upon a CMA course, for example. Immigrants are sometimes people whose studies or careers have been interrupted through their change of country. CIMA allows them to begin without a degree but to reach the same qualification through study and hard work. It can be a self-study course, which is possible to complete while holding a regular job.



I'm coming now to my main point, and that is that these bodies which are mentioned in the bill will not let you begin study without first becoming a member of their association. That's in conflict with my conscience. I have fellowship, communion at the Lord's Supper, and as a believer, I'm a member of Christ's body, the church. Therefore, I could not join myself as a member to another body such as an association consisting of some unbelievers. It would be a compromise of my prior commitment to Christ.

If it were just the government who administered the qualifications, it would be simple. My approach would be direct with the government, and I would be asking for a conscience clause. But because associations are involved, I face restrictions due to my conscience. Now, it's not entirely closed off to me. There are young people in Ontario who want to take up accountancy but do not want to become a member of an association. That's why I'm asking this committee to keep the way open for alternative accounting bodies to be recognized in Ontario, because they currently provide opportunities that the others don't.

If the issue is confusion in the market between different designations of accountants, then make the designations clearer. You can do that without being protectionist and without eliminating the accounting body and those who use it. This province needs an increase in young people who are competent in accountancy, not a reduction of them. I'm asking this government to maintain and encourage the choice of accounting qualifications so that we make accounting training more accessible for our youth.

Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Abernethie, for your presentation. Our questioning will begin with the official opposition. Ms. Elliott.

**Mrs. Christine Elliott:** I don't have any questions, but I would like to thank you very much for taking the time to come here and present the perspective on behalf of students. Thank you, sir.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Kormos.

**Mr. Peter Kormos:** Thank you to all of you, Mr. Abernethie, Mr. Smith and Ms.—?

**Mr. Marcus Abernethie:** Abernethie.

**Mr. Peter Kormos:** Abernethie. Is there anything you wanted to add to what he had to say?

**Mr. Marty Smith:** He's got it all said.

**Mr. Peter Kormos:** But at least we've got a Hansard for you.

Look, a unique perspective; I didn't anticipate this one. But so be it; yet another perspective, and one that should be persuasive. I'm glad you came.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Zimmer?

**Mr. David Zimmer:** Thank you very much. Like Mr. Kormos and Ms. Elliott, that's a perspective that just had not occurred to me, and I expect it's the same for my col-

leagues. Thank you very much for that additional viewpoint.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation.

## CERTIFIED MANAGEMENT ACCOUNTANTS OF ONTARIO

**The Vice-Chair (Ms. Leeanna Pendergast):** The Certified Management Accountants of Ontario: if you could please come forward. Welcome, and thank you for being here today. You have up to 15 minutes for your presentation. Any remaining time will be shared evenly among all three parties. We would ask before you begin that you state your names for Hansard.

**Mr. Merv Hillier:** Thank you, Madam Chair. Good afternoon. My name is Merv Hillier. I'm the president and CEO of the Certified Management Accountants of Ontario. We have 25,000 members in Ontario and 50,000 members across Canada and globally. To my left is Katharine Harvey, who is our vice-president of regulatory affairs and registrar; and on my right is Angie Brennand, our director of public affairs and communications for the society.

Let me say thank you for the opportunity to speak on Bill 158, the Accounting Professions Act. First, I will begin by thanking the government for bringing this legislation forward. We commend the government on its efforts, commitment and professionalism in managing the changes required for Bill 158 to be successful, and that would be to protect the public interest.

There are three key messages today for you to recognize and consider from the Certified Management Accountants of Ontario: We require this legislation to allow us to operate in a way that reflects the realities of our profession in the 21st century; we need the act passed expediently, as it contains some important updates to our governance provisions; and CMA Ontario is committed to upholding the public trust in the accounting profession and to the principle that internationally trained professionals must be treated fairly and be supported in our marketplace.

Why do we need this legislation? The previous Society of Management Accountants of Ontario Act was enacted in 1941 and is in need of significant changes to better reflect the operating realities of our profession and the CMA Ontario in the 21st century. Piecemeal amendments to our original act would not adequately address this task, thus we require new legislation.

Bill 158 provides not only CMA Ontario but all of Ontario's regulated accounting bodies with enhanced regulatory powers to uphold the public trust. Bill 158 will enhance our authority regarding settlement agreements in disciplinary cases, providing for sanctions without an admission of guilt or a finding of professional misconduct. Bill 158 will strengthen the ability of our discipline and appeal committees to award costs, including investigations, prosecutions and appeals costs. Bill 158 will provide CMA Ontario with the authority to obtain



court orders for custody of the records in possession or control of members who have died or disappeared, or who have neglected or abandoned their practices without making provisions for the protection of client interests. Bill 158 also removes inconsistencies between provisions of the current act and the Statutory Powers Procedure Act regarding hearings before tribunals. These new provisions are intended to keep Ontarians safer, to guard their assets and to protect our businesses from fraud.

While the legislation covers all three of Ontario's regulated accounting bodies, there are aspects of the new act that are unique to CMA Ontario and are critical for our operations. Specifically, Bill 158 contains new provisions that will allow us to better manage our governance process and structure. I'll give you just a very simple example.

We are currently electing our governors—our board of directors, in effect—on an annual basis because of our old act. Bill 158 will provide for three-year terms, which, as you can just imagine, is highly preferable from an effective governance perspective. It's as simple as that.

It has taken one whole year to get to the second reading following Bill 158's introduction. I want to address the issue of why it took one year to get there.

As you know, some of your constituents believe that the legislation unjustly penalizes them for having an international accounting accreditation. But you must understand CMA Ontario's perspective on the balance between our legislated right to title, our need to protect the interests of consumers, and CMA Ontario's firm commitment to the internationally trained.

1540

Let's talk briefly about CMA Ontario's work with the internationally trained community. Our membership is extremely diverse; one in five of our graduates is currently an internationally trained professional, and that number continues to grow.

I travelled earlier this year to India, one of many trips that we have made as a result of the Premier's trade mission to India a number of years ago, where we are working with top business schools there, like the IIMA, to provide their students with access to the CMA program.

Our national body, CMA Canada, proactively negotiates mutual recognition agreements, as you have heard also from the CGAs, with international accounting bodies. Our agreement with CIMA, for example, allows their members who are in good standing to become members of CMA Ontario in a seamless manner. They only need to have the requisite education and professional experience to join us as members.

Becoming members of CMA Ontario allows these international professionals to become part of our Ontario community, provides access to our member services and career support and, importantly, assures Ontarians that they are governed by our code of conduct and disciplinary practices.

We take our obligations to the internationally trained very seriously, though our work with Ontario's Fairness

Commissioner, through negotiation of new mutual recognition agreements and a number of other initiatives such as ESL—English-as-a-second-language—training provided by CMA Ontario.

We also take our obligations to Ontario citizens and businesses very seriously. It is for this reason we believe that people who use or employ the services of an accountant in Ontario should know that they have the ability to take recourse should any issues arise in their transactions with their accountant.

We do not believe that this is an either/or situation; that is, either you accept international credentials or you are only concerned with public protection. It is our responsibility, as a regulated body, together with our regulator, the province of Ontario, to balance both.

It is important to keep in mind that the CMAs, CAs and CGAs are the established regulated accounting bodies in Ontario. To help the public identify regulated professional accountants in Ontario, each of the regulated accounting bodies has been granted right to title. Therefore, by law, only those accountants who have met the accreditation standards of the Certified Management Accountants of Ontario and are members of CMA Ontario may use the CMA designation in Ontario.

The right to title is technically strengthened in the new act but is definitely not new. It already exists within the regulated accounting profession in Ontario. The right to title ensures confidence that individuals appearing to hold the CMA designation really do. Designations appearing to be a CMA are not equal among the international bodies. Others may not meet the rigorous standards to become an Ontario CMA, the strict code of professional conduct that CMA Ontario members are held to, and the fact that our members are subject to discipline, including expulsion, for failure to adhere to the rules and regulations imposed by CMA Ontario on its members.

Bill 158 strengthens the ability of the three regulated bodies to protect Ontario's consumers from confusion. If members of non-regulated accounting bodies advertise as CMAs, the public may assume they are regulated by CMA Ontario when they are not.

We understand that the government is bringing forward amendments to the legislation that will strike a new balance for internationally accredited accountants while providing public protection. We have provided some input into the amendments that are being discussed.

At the end of the day, with the proposed amendment, accountants from non-Ontario jurisdictions can apply for work, respond to an RFP or just simply speak at a conference. In our view, this allows new Ontarians and accountants from non-Ontario jurisdictions to obtain employment in Ontario and contribute to the economy. The amendment would also ensure the level of disclosure required to protect the public interest.

While the international aspect of Bill 158 has been the focus, the primary intent of the bill is to allow us to implement significant changes to better reflect the operating realities of our profession and CMA Ontario in the 21st century.



The legislation will also allow us to move into the future to public accounting. We are well along the process of qualifying as an authorized designated body for granting public accounting licences, and this legislation ensures that when we are ready, we will be able to proceed.

We have invested millions of dollars and thousands of hours of volunteers' time to become accredited as a public accounting body since the right was granted several years ago. Bill 158 is the final piece required to allow us to achieve public accounting rights.

In conclusion, let me reiterate my three key messages: We require this legislation to reflect operating realities in our profession and practise public accounting; we need to see it passed expediently to update our governing structure; and we believe, with the amendments, that it strikes a reasonable balance between protecting consumers and supporting internationally trained accountants.

I thank you for the opportunity to speak to this important piece of legislation, and I would encourage all parties to support Bill 158 when it's brought forward in the Legislature.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation. We have about three and a half minutes for a rotation with questions. We'll begin with the third party. Mr. Kormos.

**Mr. Peter Kormos:** You understand that everybody voted for this on second reading. You know that, don't you?

**Mr. Merv Hillier:** Mm-hmm.

**Mr. Peter Kormos:** You understand that during the second reading debate, everybody conceded that the bill was probably going to pass. You knew that. You read the discussion. The elephant in the room is our friend who acquired an ACA in India and people from all over the world who come from jurisdictions where CIMA appears to be the dominant community of accountants.

If I've acquired a CIMA accreditation—that's not the wrong word in Singapore—why shouldn't I let my customers know that in Canada? Similarly with an ACA, especially if I've put "ACA (India)," making it clear that it's an Indian ACA? If that were to happen, which part of the skies would fall and which downtown accounting firms would lead more banks and more companies like Nortel into mayhem and disaster?

**Mr. Merv Hillier:** As I said in the presentation, the standards of accounting bodies are not equal internationally or globally.

My career spans 33 years—three years with the society and 30 years in business. When I look at this from a business perspective and I'm hiring, the cost of hiring is expensive. The cost of training is expensive. When I hire and I look at the credentials of an individual, if someone comes to me and says, "I'm a CMA," I would expect that that CMA person, an individual, is a member of CMA Ontario, has gone through the rigorous program of CMA Ontario and is governed by the code of conduct of CMA Ontario. We want to make that hiring decision

easier so that there isn't confusion, so that the business community understands what they're getting.

**Mr. Peter Kormos:** The HR people I know are far smarter than that. No HR person I know has had that problem, but you're telling me there are less-smart ones out there. I take you at your word.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Kormos.

Any further questions from the government?

**Mr. David Zimmer:** Thank you very much for your presentation and for the work over the years on this file.

You've covered a lot of points in your submission, but if you wanted to leave one thought with this committee about what you think is the most significant, innovative feature of Bill 158, what would that be?

**Mr. Merv Hillier:** To avoid confusion and protect the public interest as a result of that.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Ms. Elliott?

**Mrs. Christine Elliott:** Yes, I have a question on just a slightly different topic you mentioned on page 3 of your presentation—that CIMA members can become members of CMA Ontario in a seamless manner. I'm just wondering if you could comment on what the process is. Do they just sign up, and can they automatically become members? What process do they have to go through?

**Mr. Merv Hillier:** We have a mutual recognition agreement with CIMA out of the UK, so a member of CIMA who has gone through that program can apply to CMA Ontario. If they meet the education requirements, having a university degree—some are accepted as mature or adult students or are members—and they have their experience requirements that demonstrate the competency that we require, then it's as simple as saying, "Put the paperwork through."

**Mrs. Christine Elliott:** What would you look at, though, in terms of the experience requirements? Is it a form they fill out? Is it an exam that you would expect them to write? How would you be able to assess that?

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**Mr. Merv Hillier:** Our first assessment would be to outline the experience that they've gained from employment through positions that have been held, to ensure that that experience meets the competencies that we are looking for.

**Mrs. Christine Elliott:** Just in terms of percentage breakdown, how many people would be able to automatically be accepted, and how many people would have to take some different educational courses or maybe not be accepted on terms of experience?

**Mr. Merv Hillier:** It would vary by individual. They would submit their transcripts that show the university they are from, and they would submit their resumé or the biography with regard to the employment experience required. We'd match that up to our competencies that we require and then we would process the paperwork.

**Mrs. Christine Elliott:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, Mr. Hillier, Ms. Harvey, and Ms. Brennand.



The Institute of Management Accountants, if you could please come forward. Is there anyone here from the Institute of Management Accountants? If not, we'll move on.

Okay, we can come back if they arrive at a later time.

#### ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS CANADA

**The Vice-Chair (Ms. Leeanna Pendergast):** Do we have the Association of Chartered Certified Accountants (ACCA) Canada?

As we are collecting and arriving, I'd just like to let everyone know that there is a possible vote in the House at 4 o'clock, at which time we will need to call a recess briefly to allow the members to go to the House to vote and then resume. So if it is called, you'll hear the bells and I'll have to interrupt. I apologize in advance for the interruption. It could happen at 4; it could happen later.

Thank you very much for being here. I'm sorry we jumped ahead and we're starting early, but we appreciate your being here and being so prepared. You have up to 15 minutes for your presentation. As you know, the remainder of the time, if there is any, will be shared equally among all three parties. We would ask that you identify yourselves and state your names for the Hansard before you begin.

**Mr. Paul Costello:** Thank you, Madam Chair. My name is Paul Costello. I'm the head of ACCA in Canada and I work here in Toronto.

I'm joined today by three of our ACCA members, each with a different background. They are here in order to perhaps provide additional information, more practical information, for any questions you may have.

I'll start with Hin Leong, who is on my immediate left. Hin is the head of internal audit at Canadian Natural Resources.

On my left is Raphael Joseph, who is a sole practitioner in Markham,

On my far right is Dale Wright, who is the manager of regulatory and reporting at Hydro One Networks.

I should warn you in advance that a lot of my presentation may sound like "ditto"; we will be saying things that you've heard before. But I beg your continued interest so that you can understand how ACCA might be in a slightly different position than some of the other organizations that have been before you today.

We are here today on behalf of almost 2,000 professional accountants and students in Ontario who are members of the Association of Chartered Certified Accountants in Canada.

ACCA is an international accountancy body with over 140,000 members and 400,000 students in 170 countries. ACCA is an internationally recognized and highly regarded accounting credential. Almost all of our members in Canada work in accounting positions in business, industry and government.

Since Bill 158 was introduced, ACCA Canada has been very concerned about the direction in which the bill

was proceeding, because it prohibits the use of the letters CA, alone or in combination with other abbreviations. We have worked diligently with the government over the last year to inform them how this prohibition in the bill disadvantages our members by preventing them from referring to their ACCA designations.

ACCA wholeheartedly supports the principle that the public interest must be paramount when setting regulations and standards for the accounting profession. We don't object to the desire of other bodies to protect their designations, either from misuse or from misrepresentation. But the current bill makes a simple use of certain words or letters illegal, even when properly qualified. There doesn't have to be any intention to mislead or any evidence that someone has actually been misled or confused. We believe that a blanket prohibition of the use of certain words and initials is unnecessary to protect the public. The bill already contains several restrictions on such things as holding yourself out to be a chartered accountant, offering chartered accountant services, being a member of the institute. This language is sufficient to protect the public from individuals who do not have the credentials they claim.

In an effort to address this problem, we have made several suggestions to the government. One of these is to add the country of origin in parentheses after the designation. So in our case, it would be ACCA (UK) or FCCA (UK). If this solution is adopted, in our view, this would remove any possible confusion in the minds of employers or prospective clients.

As currently written, section 27 of the Chartered Accountants Act is a solution in search of a problem. This wording is almost a century old and, in all this time, there has never been a complaint brought against any ACCA member for confusing or misleading the public. In all this time, there has never been a prosecution brought under this section of the act—that is, if you don't count the one unsuccessful prosecution by ICAO of our past chair for having the temerity to use his designation in an invitation to our graduation ceremony.

Prospective clients and employers of professional accountants are not unsophisticated, and they're not uninformed. They have had no difficulty, apparently, in distinguishing between CA, CGA and CMA. Why is there a blind spot between that situation and ACCA and CA or ACCA and CMA? Furthermore, this prohibition is inconsistent with other sections of the bill. It has already been pointed out to you today that section 2 of the act says, "This act does not affect or interfere with the right of any person who is not a member of the institute to practise as an accountant."

Not to be able to use one's designation in normal business situations seems to me to be an obvious form of interference. If left unchanged, these restrictions are also at odds with the government's Open Ontario thrust and its desire to make Toronto a model financial centre. This cannot be achieved by restricting competition and reducing consumer choice. This is the only place where our members are forbidden to use their professional



designations in all of the 170 countries in which our members reside and work.

ACCA believes strongly that section 27 should be revisited by this committee with the goal of striking an appropriate balance of interests. In our recent discussions with the government, we have been informed that they will be proposing certain amendments regarding section 27; these have been referred to earlier. As we understand it, these amendments will permit our members to use their designations in selected, private communications, along, perhaps, with the addition of a stipulation that states that the individual is not a member of the institute.

As we have heard from Mr. Zimmer, this draft is far from finalized, but we are hopeful that ultimately the amendment will address some of our concerns. But even with these amendments, the legislation still contains unnecessary restrictions on the ability of our members to communicate with the public about their credentials. We believe that parentheses are a better solution than any disclaimer. It makes more sense to say what you are than what you are not. It better serves the public interest to provide more information rather than to restrict what the public can hear.

ACCA is not asking for standards to be lowered. We are not asking for any special status. We are not asking for the lessening of public protections. We are asking for the act to eliminate the unnecessary restrictions on our members' use of their designations. We believe that if this is done, Ontario will be able to show its population that it has acted on its stated principle of welcoming foreign professionals, of aligning its financial regulations with the rest of the world, and to be truly Open Ontario.

Thank you very much for your interest. We will be providing a written submission in due course. We look forward to your questions.

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**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, Mr. Costello. We have a round of questioning, and we will begin with the government.

**Mr. David Zimmer:** How much time is left?

**The Vice-Chair (Ms. Leeanna Pendergast):** Nine minutes, so about three minutes each.

**Mr. David Zimmer:** I understand that ACCA has a mutual recognition agreement with CGA.

**Mr. Paul Costello:** That's correct.

**Mr. David Zimmer:** It might be of interest to members of the committee how that works.

**Mr. Mike Colle:** I can't hear.

**Mr. David Zimmer:** I understand that ACCA has a mutual recognition agreement with CGA, and that's in place now.

**Mr. Paul Costello:** That's correct.

**Mr. David Zimmer:** Members of the committee might be interested in how that works.

**Mr. Paul Costello:** It's a very simple agreement. First of all, it's a global agreement; it doesn't just apply here in Ontario. So CGAs anywhere in the world can opt to become an ACCA and vice versa. The principle is very simple: We have assessed each other's credentials and

found them to be substantially equivalent, and therefore there is no educational barrier for a member of one designation to become a member of another. We do require, depending on the circumstances, the member to pass a tax and law course in the jurisdiction in which they practise. There is also a stipulation on education which provides that if the member applying joined that organization after 1997, they must have a university degree.

**Mr. David Zimmer:** So just following up on that, is it not a moot point, then, that an ACCA member can, by effecting this recognition agreement, in effect, hold themselves out as a CGA?

**Mr. Paul Costello:** Well, the truth is that if you apply to the other body, you will be dual-designated, which is a very common practice in many countries of the world. A Canadian member wanting to become a member of the CGA may do it for two reasons: One is to gain access to a public accounting career, which they would do then through CGA, because CGA is licensed to practise public accounting in other provinces; or they want to belong to a designation that has wider recognition in some parts of the country than does ACCA.

The truth is that no one wants to give up their designation. The designation is a marker for your professional achievement and your professional status.

Now, two of our members are also CGAs. I don't believe they became CGAs through the mutual recognition agreement. Dale, maybe you could say something about this.

**Mr. Dale Wright:** Yes. Dale Wright is my name. I did become a CGA about three years ago under the MRA with ACCA and CGA Canada. But that didn't mean I wanted to give up my ACCA; that was like my pride and joy. That was my initial professional qualification wish. It's both personal and professional where I'm concerned.

**Mr. David Zimmer:** Thank you, Chair.

**The Vice-Chair (Ms. Leeanna Pendergast):** Ms. Jones.

**Ms. Sylvia Jones:** Just to make sure I heard you correctly, of the 170 countries where ACCA members practise, with these proposed changes, this would be the only one where you would not be able to use your current designation?

**Mr. Paul Costello:** That's right.

**Ms. Sylvia Jones:** Okay. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Kormos.

**Mr. Paul Costello:** I just—sorry. All of these members have worked internationally. Obviously, all of our members are immigrants to Canada, because we don't recruit students here. Do any of you have anything that you want to say in addition to that?

**Mr. Hin Leong:** Yeah, I have something to say here. As a past president of ACCA Canada, I have actually actively encouraged the immigration of skilled professionals who make up the membership of our association to come to this great country. People came to Canada in the sincere belief that their skills would be welcomed.



Indeed, they have been welcomed by all of the employers and clients, and their level of training remains in high demand. I myself came to Ontario some 20 years ago and was hired based solely on the strength of my ACCA qualification. There are still others who choose to live and work here who hear the language about welcoming skilled immigrants to an open Ontario. They would not come here, however, if they learned that they would effectively be stripped of their credentials on arrival. It is hard enough to find meaningful employment without Canadian experience. It will be even harder if Bill 158 were to be passed as is.

The ACCA designation is a product of years of effort and education. It is the very definition of the professional status that they have achieved. To then be marginalized without credentials by Bill 158 would be completely inconsistent with the Open Ontario plan that the government has talked about in the throne speech and budget.

Ontario opened for business some 20 years ago to welcome me. I strongly urge the members of this committee to continue that trend by making Ontario the best place to do business in the world.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you.

Mr. Kormos, we're running low on time, but go ahead.

**Mr. Peter Kormos:** I understand that. Look, bear with me. I'm doing the best I can.

So you say that CGA acknowledges that ACCAs are perfectly capable, by virtue of admitting them as CGAs?

**Mr. Paul Costello:** That's correct.

**Mr. Hin Leong:** Yes, they are.

**Mr. Peter Kormos:** And ACCAs are, quite frankly, prepared to legitimize CGAs by letting them become ACCAs?

**Mr. Paul Costello:** Correct.

**Mr. Hin Leong:** Yes.

**Mr. Peter Kormos:** Except CGA doesn't want you to be identified as an ACCA, even though they see ACCA as a perfectly valid standard?

**Mr. Paul Costello:** That's certainly what you've heard today, much as you heard Mr. Hillier say that you can become a CMA but "we won't let you use your CIMA designation." So we certainly don't see eye to eye on that. Our view is that if you get a university degree at York University and then you decide to get another one at Queen's, the deal isn't that you can't mention your York degree anymore after you get a Queen's degree.

**Mr. Peter Kormos:** This is Lewis Carroll kind of stuff, isn't it, Mr. Zimmer?

Thank you, gentlemen.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation.

Yes, Mr. Kormos?

**Mr. Peter Kormos:** Could I ask legislative research—perhaps you can call your people in, because I have a question for legislative research.

**The Vice-Chair (Ms. Leeanna Pendergast):** That'd be lovely. Thank you.

I'm just checking to see if anyone from the Institute of Management Accountants has arrived, just to double-check? No.

## CHARTERED INSTITUTE OF MANAGEMENT ACCOUNTANTS OF ONTARIO

**The Vice-Chair (Ms. Leeanna Pendergast):** If the Chartered Institute of Management Accountants of Ontario, CIMA Canada, could please come forward? And while you're assembling, Mr. Kormos?

**Mr. Peter Kormos:** Legislative research—Mr. Charlton—please: Earlier today, from the British Consul General, we were told that Britain is a wide-open jurisdiction where anybody can identify themselves as being a member of any of the various bodies. Can you please get some hard confirmation of that, with an illustration of what it means for Great Britain, for the UK; that is to say, who is practising there with these designations? And if you could give us some examples of who is not, because obviously the government might argue, at some point, that they want to protect the public from the mischief of somebody setting up a shell body with a name that could be used as an acronym that could in fact be misleading. We haven't seen any of that. We haven't seen any of these crummy little—like the diploma mills type of thing. I think that the government may argue that at some point. If they don't, they'd be fools not to, now that I've laid it out for them. But we want some argument in response.

**Mr. James Charlton:** We'll look into that.

**Mr. Peter Kormos:** Thank you, sir.

**Mr. James Charlton:** What sort of a deadline would you want? Just before clause-by-clause? The sooner, the better, I'm guessing?

**Mr. Peter Kormos:** April 29 is when we're here next for clause-by-clause. I suppose it'd be helpful if we had something by April 29.

**Mr. James Charlton:** We'll do our best to get something by then or earlier.

**Mr. Peter Kormos:** Thank you kindly. I'm sorry, Chair.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much.

Just a reminder before you begin: I'm watching the private members' business, but in case there is a vote called, we apologize ahead that we have to interrupt.

You have up to 15 minutes for your presentation. The remainder of the time will be shared evenly among all three parties. If you could please state your name and your affiliation with an organization for Hansard, please, before you begin.

**Mr. Amal Ratnayake:** Madam Chair, ladies and gentlemen, thank you for providing me with an opportunity to present to you today. To introduce myself, my name is Amal Ratnayake. I'm the deputy president of CIMA Canada, the CIMA branch in Canada. Professionally, I'm the vice-president of finance at officialCommunity, a corporation in the media and entertainment industry.



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I'm not here today to talk to you from the perspective of CIMA. Charles Tilley flew in from the UK to do that. My intent is to explain the restrictions in this bill as they affect me and many other foreign-designated accountants. In my opinion, the restrictions should be eliminated altogether to ensure that we encourage professionals with international experience to move to Ontario, to encourage diversity and to prevent the marginalization of foreign-designated accountants.

However, if we do need to have these restrictions, a couple of suggestions would be to allow foreign-designated accountants to display their designation with the country of origin as a suffix. If that doesn't work, at least maybe we should limit the scope of the restrictions to those providing accounting services to the public.

The exact wording of the amendments I propose are in appendix A of the document that has been provided.

In order to explain the impact of the restrictions, I would like to take you back a decade, to my early days in Canada. When my wife and I decided to move to Canada, we did so because we had heard of Canada's supportive attitude towards new immigrants. We had considered a few other options but settled on Canada mainly for that reason.

The first dose of reality hit me when I started meeting with recruiters and I was asked if I had Canadian experience. Obviously not, and I could not understand the relevance of that. I was born in Sri Lanka, went to high school in Africa, went to grad school in the UK and had worked in the Middle East before I moved to Canada. I believed that my skills were transferable. Was that not the reason that Immigration Canada accepted my qualifications?

During this early period in Canada, a period of many challenges, the one thing that provided comfort to me during my job search was the strength of my education, the ability to proudly display my CIMA designation on my business card, my email signature and my resumé, a designation that I had worked really hard to achieve and a designation that I was extremely proud of.

It also had other benefits: networking benefits. My first job in Canada was a fairly junior role: no Canadian experience. A director at Sprint Canada, which is where I was contracting at, noticed my designation on my email signature, gave me a couple of complex projects and then asked me to apply for a managerial role. Hence, I am where I am today.

Many employment arrangements are developed through networking. For those new immigrants who are trying to get a foot in the door, the ability to network is essential. The ability to secure a job through networking will be much harder if he or she is not allowed to display the designation on a business card or email signature.

Mr. Zimmer suggested this morning a possible exception for resumé. That is definitely a step in the right direction. However, it would not address the fact that networking is one of the most practical means for new immigrants to find suitable employment. For that, you

need to be able to display your designation, your designatory letters, on your business card and your email signature.

There were a couple of questions earlier today about the MRA as well. To me, it's a matter of principle. To become a member of a Canadian body through an MRA should be a matter of choice. It should not be something that you're forced to do by legislation.

Secondly, sometimes it's a Catch-22, and I specifically refer to the MRA between CIMA and CMA. The MRA requires one year of managerial practical experience in Canada. That's a Catch-22. You're not allowed to network; you're not being given the opportunity to get to a managerial role in a speedy manner, yet you have to have one year of managerial experience.

I would also like to touch on CIMA for a bit. CIMA is a truly global body. The chair of the board of CIMA's global operations, coincidentally, was born in Sri Lanka. He is domiciled in Australia. He has no restriction on displaying his designation in Australia. The last time I spoke to him, he was visiting the CIMA branch offices in China. There are no restrictions regarding the display of foreign designations in China.

An interesting fact is that CGA-Canada has members and students in China. What would be the plight of the CGA members and students if the Chinese government were to propose legislation that would prevent them from displaying their designation? One may say, "Yes, that could happen in China," but ladies and gentlemen, we're not talking about China. We're talking about Canada; we're talking about Ontario. No other developed nation has imposed this type of restriction on foreign-designated accountants.

We've heard much of Open Ontario. I ask you, is this open? In an increasingly global world, Ontario should be welcoming professionals with international experience, not making life more challenging than it already is for those new to the country. Ten years ago, if these restrictions were in place, very likely I may have looked for other options than Canada. One views restrictions with a sense of apprehension. One thinks that this is the tip of the iceberg. One thinks that these restrictions are an indication of other challenges for new immigrants, a bias against foreign-designated accountants.

My understanding is that the intent of this bill is to protect consumers of accounting services. However, the restrictions are written so broadly that I, as an employee of a corporation—and I do not provide accounting services to the public—am not allowed to display my designation on a business card or email signature. Why is that?

There was a question this morning from Mr. Moridi, I believe, that highlighted the different tax laws in different countries. That's true; they're different. Accounting standards are the same the world over, with the introduction of IFRS, but tax principles differ. Surely, the answer is not to ban the use of foreign designations.

I would suggest that this would cause greater confusion, as you would not be able to distinguish between a



foreign-designated accountant and an accountant who has no designation at all. That surely cannot be in the public interest.

Qualified accountants understand the need for professional development and will do what is required to develop themselves. If not, their business will not thrive. They will not give the right advice to their clients, they will not get referral business, and in the longer term, their business will not survive—probably not in the shorter term either.

There are also a couple of myths around this bill, one of which is that these restrictions exist in their current form. They do not exist in the current CMA Act. I refer to the CMA Act, because that is the act that impacts me as a CIMA member. This existing CMA Act prohibits anyone other than a member of CMA Ontario from using the letters CMA. The proposed legislation prevents anyone from using the letters CMA together with any other letters. I would suggest that this wording is broader than it needs to be and overly restrictive.

The South Asian Legal Clinic of Ontario, a legal clinic that has a mandate to review legislation that affects their clients—and a significant number of our members are from South Asia—reviewed this bill and concluded that it is discriminatory under the Human Rights Code of Ontario. I believe they've written to the AG. I believe we are in a position to address these issues before it is approved and prevent the likelihood of persons impacted by this bill making an application to the Human Rights Tribunal of Ontario at a later date.

We have an opportunity today to redress the potential imbalance before it is created. I ask that when you review this bill, please consider the impact that it will have on new immigrants, many of whom are minorities, like myself, many of whom have moved to Canada to achieve their dreams. Are we acting fairly towards them? Are we marginalizing a group of people who are already facing significant hardship when integrating into this economy? Premier McGuinty has made a commitment to assist new immigrants to integrate into our economy. I suggest to you that this bill will be detrimental to that goal. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation. We have about six minutes remaining, so approximately two minutes per party. We'll begin with the official opposition: Ms. Jones.

**Ms. Sylvia Jones:** I don't have any additional questions. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Kormos.

**Mr. Peter Kormos:** Thank you kindly. I'm eager to get the material that legislative researcher Mr. Charlton is going to prepare about England, the UK. The picture that's being painted for me by you folks who have been here today is that this legislation is going to paint us, as a province, as being, at the very least, provincial in our attitude and ethnocentric to the point of xenophobic.

Mr. Zimmer, it's that same arrogance and haughtiness that has prevented us from ever meaningfully developing

a protocol for recognizing foreign training. Sure, we've got a University of Toronto that goes back maybe a century and change, but there are universities in other parts of the world that go back centuries and centuries and change.

Do you understand what I'm saying, Chair? We assume that, unless it comes from North America with all of our historical background, it can't beat us in any way, shape or form.

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I'm really worried, and I'm interested in what the Consul General—he was very careful not to appear to be threatening. I think that in a very benign way, a very friendly way, a very amicable way, he expressed concern about what Ontario is doing to itself in terms of the image the world has of Ontario, especially in the context of the UK, with this type of legislation. It just appears to be so restrictive and defensive and non-inclusive.

Again, the Premier—we teased him for his hokey speech about Open Ontario. We thought it was hokey. But he clearly wanted to paint Ontario in a certain way. This isn't helpful. He has just taken out a black brush and painted over the paint-by-number that he did in his most recent speech.

Jeez, what would Martin and Florida say about this? They'd charge you a couple of hundred thousand dollars to say it, but I suspect they'd tell you that this was darned short-sighted on the part of the province of Ontario. I bet you that's what they'd tell you. As a matter of fact, we haven't heard from Jean Augustine, and I may not see her in the immediate future, but I bet you she'd have some very interesting things to say about this perspective, this approach, this style, this model.

Thank you, sir. I guess I didn't ask you a question, did I? But I'm complimenting you for helping me get this image. I'm starting to get a handle on this.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Kormos. If you have any comments for Mr. Kormos at any time, just let me know.

To the government: Questions? Comments?

**Mr. David Zimmer:** Thank you very much. You covered the questions that I was going to ask you in your remarks, and I've made notes, so thank you very much for your presentation.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you again for your presentation.

#### INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

**The Vice-Chair (Ms. Leeanna Pendergast):** At this point, we would like to call forward the Institute of Chartered Accountants of Ontario, please.

We're just watching to make sure that you won't be interrupted. Just a reminder, though, that there could be an interruption. If a vote is called, we'll have to call a five-minute recess. I apologize in advance for a possible interruption.



Again, you have up to 15 minutes for your presentation; any remaining time will be shared equally among all three parties. We ask that before you begin, you identify yourselves for Hansard, please.

**Mr. Rod Barr:** Thank you very much, Madam Chair. Madam Chair, members of the committee, ladies and gentlemen, my name is Rod Barr and I'm the president and CEO of the Institute of Chartered Accountants of Ontario.

I'd like to thank you first of all for this opportunity to speak today on behalf of Ontario's 34,000 chartered accountants in support of the timely passage of Bill 158. I'm joined by my two colleagues: on my left is Tom Warner, the institute's vice-president and registrar, and to my right is Elizabeth Cowie, our director of legal and regulatory affairs.

I'd like to preface their remarks by setting out for you today what we see as two basic issues. One of them constitutes about 95% of the content of Bill 158; the other, maybe 5%. Unfortunately, it seems that that 5% has consumed most of the discussion here today and for the past year, as I believe one of the previous presenters said. We're going to talk about both of those issues.

The bulk of this bill, as you know, is a set of new regulatory tools for the accounting profession that are essential for us to do our jobs as regulators in the 21st century. That job is to protect consumers and the public. In the case of the new CA Act, as it's contained in Bill 158, these measures would modernize and update the regulatory powers that haven't changed since 1956, especially as they relate to our ability to discipline acts of professional misconduct in a timely way.

Judging from everything I've heard here today and that transpired before I got here, as was reported to me, that part of the bill is not terribly contentious. That's the good news, and Tom will review that with you in a moment.

The bad news is that a singular clause in Bill 158 has caused a lot of misunderstanding that needs to be squarely addressed. I refer to a section of the act designed to limit the use of accounting designations that are not regulated in Ontario and that sound too much like the accounting designations that are regulated in Ontario, thereby risking marketplace confusion as to who can do what and who is properly regulated where. That's the other side of the public interest issue.

You see, we started out this process with a focus on modernizing our legislation, and we have wound up arguing about barriers to employment and protectionism, which is decidedly not what, in my view, Bill 158 is about. Elizabeth will address this point in a moment.

First, let me turn to the institute's vice-president and registrar, Tom Warner.

**Mr. Tom Warner:** Thank you, Rod. Let me begin with two central points: The first is that in order to effectively regulate a 21st-century profession in the name of consumer and public protection, you need 21st-century tools, just as Rod has said. Bill 158 would grant us those tools. In doing so, Bill 158 would replace the current

Chartered Accountants Act that was passed back in 1956, when Leslie Frost was Premier.

The second point is that the effectively regulated practice of accounting is critical to the proper functioning of Ontario's financial services sector, and critical to public confidence in that sector. Financial services is a part of our economy that has been recognized by successive Ontario governments as a key driver of our competitiveness, prosperity and job creation—as recently as in last month's speech from the throne. For this, too, our province needs modern regulatory tools of the kind built into Bill 158. Let me highlight a few of these for you now—I'm sure you're familiar with them.

The legislation defines the powers of our investigators and inspectors so that they can effectively fulfill their duties in the public interest. It will clarify and enhance the efficiency of our discipline processes in such areas as settlement agreements, cost recovery, the effect of an appeal, and our jurisdiction over former members, so that the public can trust in our processes and that trust can be maintained. It will allow us to both protect the public and assist members who have a health issue or crisis by enabling us to conduct a capacity assessment. And it will permit the institute to protect clients and consumers by granting us the power to obtain court orders for custody of client records in the possession of members who have died or disappeared, or who have neglected or abandoned their practices.

While these provisions might be new to the CA profession, they are in no way new to the broader community of regulated professions in Ontario. These other regulatory tools are common to a number of professional bodies, such as the Ontario College of Teachers and the Law Society of Upper Canada, to name just two. All are devised for the sole purpose of ensuring that these professions are regulated in a modern, transparent and effective way, to protect consumers and the public in an age of unprecedented change and complexity.

Now I'd like to turn to my colleague, Elizabeth Cowie.

**Ms. Elizabeth Cowie:** Thank you, Tom. The need for consumer and public protection applies equally to the provision in Bill 158 respecting the use of non-recognized accounting designations in this province. This provision, as Rod has alluded to, has created considerable debate, not only in today's hearing but in the many months preceding it.

I refer to the sections of the act that would prohibit an individual from using any term, title, initials, designation or description that would imply that the individual is a member of one of Ontario's recognized accounting designations, when in fact they are not. This provision is actually carried over from the current CA Act and its predecessors, and has been the law in this province for almost a century. In fact, the only change to this section is an increase in the maximum penalty for such misuse, from \$300 to a more realistic \$10,000.

The issue at stake here is not that of barriers to employment in accounting or any other field. Nothing in



this provision or this legislation impacts on the ability of a person with an accounting designation other than one of the three designations regulated by this province to seek employment as an accountant or to provide accounting services. Nor is it about competition. Section 2 in the proposed act sets out that this act does not affect or interfere with the right of any person who is not a member of the Ontario CA institute to practise as an accountant. That provision has also been around for a century. It's the same for the CGA and CMA acts contained in Bill 158.

The new act will simply continue to reduce the risk that the use of these designations will confuse members of the public, the would-be users of accounting services, who already face a bewildering array of similar-looking designations and degrees. Madam Chair, the public should not be expected to judge subtle nuances of differentiation and distinction. Consumers should not be expected to have the expertise to judge the relative competencies of these practitioners. That's why we have regulatory bodies such as ours. They shouldn't, certainly, be expected to know that one practitioner belongs to a professional accounting body recognized in Ontario law, regulated in Ontario, required to meet certain standards and subject to professional conduct rules and discipline mechanisms in Ontario, and that another does not.

It is important to understand as well that internationally trained accounting professionals have a broad range of options available for pursuing their careers here in our province. The CA profession's own processes for assessing and enabling access to our profession have already been recognized by successive governments as best practices. As evidence, I have for you a summary of those processes, and I stress that this is just a summary of much more comprehensive information readily available to any prospective immigrant from anywhere in the world on both the institute website and the government of Ontario website.

Further—

**The Vice-Chair (Ms. Leeanna Pendergast):** Ms. Cowie, could I interrupt you there, please? I apologize. We have to take a brief recess so that the members can vote. I would encourage members to return in an expedient fashion, please, because we have people waiting for us.

We are recessed. Thank you.

*The committee recessed from 1631 to 1645.*

**The Vice-Chair (Ms. Leeanna Pendergast):** If we could come to order again, please.

**Mr. Lou Rinaldi:** We can?

**The Vice-Chair (Ms. Leeanna Pendergast):** If we may, if we can, if we have the ability. Thank you, everyone.

Sorry for the interruption. Ms. Cowie, I especially apologize; you were mid-sentence when we had to interrupt you. If you wanted to continue where you left off, that would be appreciated.

**Ms. Elizabeth Cowie:** Thank you, Madam Chair. Just before I continue, if I could just confirm, I believe we've got eight minutes left?

**The Vice-Chair (Ms. Leeanna Pendergast):** You've spoken for eight minutes and 17 seconds, so you're good.

*Interjection.*

**Ms. Elizabeth Cowie:** But are they accurate?

**Mr. Peter Kormos:** But we've got all the time in the world.

**Ms. Elizabeth Cowie:** I don't.

To pick up where I left off, the UK-based accounting bodies who have expressed considerable concern with the prohibition provision already, as you've heard, enjoy reciprocal rights with other recognized Ontario accounting bodies. Therefore, the provision has nothing to do with protectionism, which by definition involves keeping people or things out. On the contrary, this measure, together with every other section and clause in the bill, is about ensuring that consumer and public protection continues to be built into legislation governing the accounting professions in this province.

Now, back to Rod for some closing thoughts.

**Mr. Rod Barr:** Thanks, Elizabeth and Tom.

Madam Chair, you don't need me to tell you that sometimes the best of intentions can lead to misunderstandings. Based on much of what we've heard here today, this may be the case with Bill 158.

Few professions today are more sensitive to the needs for global talent and global expertise than chartered accountants. We need to work globally because that's how markets, capital and investment work. They cross borders and time zones at the push of a button, so we need to work internationally, and we need international talent to work here. Yet we do know that we have to strike a balance between the need for enhanced immigration and the protection of the public. Both of these sides, if you like, of Bill 158 attempt to do that. They're not about protectionism. They're not about barriers to employment.

We need Bill 158 to succeed, but we're also mindful of the concerns that we have heard here today. The institute, therefore, would have no objection whatsoever to the addition of language that would clarify the real intent and to address those misapprehensions.

Specifically, such language should make clear the following things: that nothing in this act would prevent a person from referencing his or her designation in a speech or presentation in response to an RFP or in an application for employment to illustrate his or her educational background, and that nothing in this act would prevent a designation holder from referencing his or her designation at a conference or seminar if he or she does not reside in Ontario. Such amendments have been discussed with many of the discussions here today.

We encourage the government to pass Bill 158, and we thank the government for bringing it forward. This legislation, we believe, enhances public protection, both by strengthening our ability to effectively provide the regulatory oversight that we need and, at the same time,



by minimizing the risk of public misconceptions about the many designations in the marketplace. That is what Bill 158 is supposed to be about—not protectionism, not market share, not access.

Thank you, and we'd be happy to answer any questions.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much. We have just over three minutes for a round of questioning, so we'll ask that each party keep the questions brief, if possible. We begin with the third party—Mr. Kormos. His eyes are flashing around. I don't know what it means.

Mr. Kormos.

**Mr. Peter Kormos:** It could mean a seizure of some sort.

**The Vice-Chair (Ms. Leeanna Pendergast):** I wasn't sure, actually.

Go ahead.

**Mr. Peter Kormos:** Thank you, Chair. Thank you, folks.

You are who Ms. Francisco was talking about this morning when she talked about oligopolists. There they are, Mr. Zimmer. We've met them. You weren't here this morning.

1650

**Mr. Rod Barr:** I'm not 100% sure what the young lady said.

**Mr. Peter Kormos:** She talked about the oligopolists.

Look, I hear you, and I also hear you say that it's the 95% of the bill that is the real content you need in terms of the enforcement: tech tools and prosecution tools; in other words, the ability—I'm not a big fan of self-regulation, but that's irrelevant. This bill is about self-regulation. We're not going to defeat the bill because I'm not a fan of self-regulation, okay? That is a regrettable trend in most places in the world right now.

My goodness, you referred to St. Laurent and the time frame of that provision. When St. Laurent was Prime Minister, people weren't coming here from Sri Lanka, people weren't coming here from the Philippines and people weren't coming here from India. People like my folks were coming here, from southern Europe. So I hear you, and I see you—I'm not sure that means anything in terms of the panel sitting here—but we have changed as a province. We're an international community. We're not a single ethnic community. We celebrate multiculturalism.

I'm old enough to remember St. Laurent, because I was born just about that time. In my short lifespan, this province, this country, has changed for the better, for the good. You say it's confusing now; I agree. You suggest that professional clientele don't check credentials. Somebody suggested that HR people weren't that clever, that they would be confused by these things.

I hear you, and I respect your position when you say that 95% of the bill is what really matters. I suspect that this—and you did the alphabet soup thing too, which I thought was interesting. I hadn't seen your material, because it struck me as that. The alphabet issue is one

that I think the government should address in a more inclusive way. You know that's where I come from.

The bill is going to pass. The only issue is whether we're going to be perceived as a world-class jurisdiction that accesses the whole world or as somewhat provincial.

**Mr. Rod Barr:** I didn't detect a question there—

**Mr. Peter Kormos:** Well, it wasn't really a question.

**Mr. Rod Barr:** —but may I make a comment?

**Mr. Peter Kormos:** Sure. Of course you can. I made one.

**Mr. Rod Barr:** I would say I absolutely agree with some of the things you say. I would certainly say that 50 or 60 years ago, we were more oligarchic. Of course, it wasn't a big problem because we didn't have folks coming in. But I will also tell you that in the last 15 years, our organization of chartered accountants, as well as those of my colleagues, has spent an awful lot of time and energy trying to smooth out access and allow those with a foreign designation to take that foreign designation and build on it to meet Ontario standards.

It's a blessing and a curse, but this government said a few years ago: "These are your standards. For somebody to become a CA, they have to meet these standards." We have no choice.

So the gap between where somebody might be, when we do our assessment, from their jurisdiction to where we are today requires some sort of remedy and some sort of work, and we're spending millions of dollars, as Merv from the CMAs has already suggested, trying to build bridges to allow people who come in from those countries to meet the Canadian standards as espoused by Ontario in the Public Accounting Act.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much.

To the government: Mr. Zimmer.

**Mr. David Zimmer:** We've had a lot of deputants here today. You're the penultimate deputant. What do you take to be the most important aspect of the bill that this committee has to consider? What's the core of the bill, in your view?

**Mr. Rod Barr:** It would be pretty hard for me to argue that the core of the bill is, as Mr. Hillier said, protecting the public interest. But the core of the bill in volume is, as Mr. Kormos has said, the ability for us and any of the designated bodies to effectively police, if you'll allow me to use that term, our people.

But that policing aspect does spill over into the second issue that I discussed today, in terms that if people are going to do things and sound like they're accountants, there has to be a policeman. Why should our members be the only ones being policed in this jurisdiction, when other members of other bodies are not policed? I realize that's a different problem for the committee to deal with, but that is the issue nonetheless.

**Mr. David Zimmer:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Ms. Elliott.

**Mrs. Christine Elliott:** I'd like to thank you for joining us today, and I'm sorry that I missed the first part



of your presentation because I had to step outside; my apologies.

I just have a quick question. Looking at this in the international context, I'm just wondering if you had any concerns or considered any possible reciprocity that might happen in other jurisdictions with respect to the changes being introduced in Ontario.

**Mr. Rod Barr:** We have a very widely cast net of reciprocity with what I think we call the CAGE bodies—is that the right acronym, Tom? With those folks, we recognize each other's degrees back and forth, much as you heard about the ACCAs and the CGAs, subject only, at this time, to tax and law examination, because tax and business law are at the roots of what we do.

So, yes, we have a large number of mutual recognition agreements, and we're working even harder to try to expand those. As we speak, there are meetings about that going on in BC right now.

**Mrs. Christine Elliott:** But you don't anticipate that there would be any diminution in that relationship as a result of these changes to Bill 158?

**Mr. Rod Barr:** I do not expect that at all. No.

**Mrs. Christine Elliott:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation.

**Mr. Peter Kormos:** Chair?

**The Vice-Chair (Ms. Leeanna Pendergast):** Yes, Mr. Kormos.

**Mr. Peter Kormos:** We should thank Mr. Zimmer for—

**The Vice-Chair (Ms. Leeanna Pendergast):** We're not finished. There's one more—

**Mr. Peter Kormos:** I know that—but for his proper use of the word “penultimate,” so often misused. I'm grateful to him for that.

**Mr. David Zimmer:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Duly noted. Thank you.

MR. ANT00 VALOOKARAN

**The Vice-Chair (Ms. Leeanna Pendergast):** We call forward Mr. Antoo Valookaran.

You have up to 15 minutes for your presentation. Any time that is left over will be shared equitably among the three parties. We would ask that you begin by stating your name for Hansard, please.

**Mr. Antoo Valookaran:** Good evening, honourable members of the standing committee. I'm a chartered accountant from the Institute of Chartered Accountants of India, a certified public accountant from the United States of America and a registered professional accountant from the Society of Professional Accountants of Ontario. I also have certified financial planner designation and trust and estate practitioner designation, and I practise as a financial planner in Markham.

Thank you for providing me with this opportunity to express my concern and indignation regarding Bill 158. Personally, I feel the Accounting Professions Act, if

passed to become law, would be catastrophic for foreign accountants and immigrants who hold foreign accounting designations. This is tantamount to the removal of fundamental and inalienable rights granted under the Charter of Rights and Freedoms to earn a livelihood utilizing knowledge and skills acquired in a foreign country in which full-time studies and practical experience were completed. In certain cases, this can be as much as 20 to 25 years of training and education. What a disgrace for a diverse, cosmopolitan and democratic society to ask these professional accountants to hide in the closet their hard-earned and underrated accounting designations obtained outside of Canada to further the interests, aims and objectives of the big three oligopolists.

It is beyond my comprehension how the House could propose and endorse a bill that imposes a mandatory \$10,000 fine and criminal conviction on those who proudly have their designation displayed on their business card or letterhead, with the country encapsulated in brackets.

It would appear that the oligopolists want to protect their own interests at the expense of the public interest by manipulating the Accounting Professions Act. In my opinion, only the audit as an assurance function should be restricted. Reviews and compilations which provide no assurance whatsoever are sacrosanct to all and should not be legislated. Accounting, bookkeeping and corporate tax preparation should also remain outside of the licensed realm.

1700

I would like to take this opportunity to delineate some of the elitist and discriminatory practices I believe the Institute of Chartered Accountants of Ontario is engaged in. For example, their regulation II, section 203, clause 4 specifically provides for the granting of membership candidate status for designated certified public accountants who have received their qualifications in the United States. This section provides for the granting of the CPA membership candidate status in the Institute of Chartered Accountants of Ontario.

Regulation II, section 203, clause 4 discusses the writing of all parts of the uniform CPA examination of the American Institute of Certified Public Accountants while having been a resident of a country other than Canada. This clearly means that a person who passed the CPA while not a resident of Canada will be granted the membership candidate status by the Institute of Chartered Accountants of Ontario. This would appear to be an example of unabashed and blatant discrimination to Canadian residents, even though all candidates successfully wrote and passed the same exam. Could one possibly infer from this that the institute is a self-serving member of the oligopoly? Why do they always appear to prioritize the protection of their own interest ahead of that of the public interest? Surely this could not be another example of abusive oligopolistic behaviour. I believe that their policy is protecting the public interest. Clearly these bylaws and regulations should not be condoned.



I would like the committee to carefully review this issue and request that the institute undertake all necessary steps to terminate all elitist and discriminatory practices in Ontario.

In summary, I would like the committee to carefully consider the following three issues:

(1) Allow the foreign designations to continue the practice of printing their foreign designation on their business cards and letterheads, with the country in which the foreign designation was earned following and encapsulated after the foreign designations in brackets.

(2) Reviews, compilations, bookkeeping, accounting and tax preparations should be specifically excluded from the scope of the Accounting Professions Act so that any member of the public who is qualified is allowed to perform these services.

(3) Require that the Institute of Chartered Accountants of Ontario remove all elitist and discriminatory practices that are contained in their bylaws and regulations.

I hope that these suggestions will assist the committee when making revisions to the legislation. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation. We have just over two minutes each per party for questions, and this round of questioning begins with the government. Mr. Zimmer.

**Mr. David Zimmer:** I just wanted to understand: You said in summary, your second point was, "Reviews, compilations, bookkeeping, accounting and tax preparations should be specifically excluded from the scope of the Accounting Professions Act so that any member of the public ... is allowed to perform these services." Did I—

**Mr. Antoo Valookaran:** Any qualified member.

**Mr. David Zimmer:** Any qualified member. All right. I just wanted clarification on that. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Ms. Elliott?

**Mrs. Christine Elliott:** I don't really have any questions, but I'd like to thank you for your presentation. It's very clear and concise. I understand it very well. Point taken. Thank you very much.

**Mr. Antoo Valookaran:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Kormos, the last word goes to you.

**Mr. Peter Kormos:** Thank you, sir. I appreciate your participation. You're the last presenter, and now you've left me with a nagging thought—and I'm going to blame you for keeping me up tonight: Really, when you distil it down, it isn't about who can do accounting work, because anybody can do accounting work and anybody can call themselves an accountant; it's about who can put initials, letters, after their name and who can't. There's no fear that the existing proposal, Bill 158, would prevent you from—if a client asked for your resumé or your CV, you could list all the professional training you received.

**Mr. Antoo Valookaran:** No, the bill specifically says the \$10,000 fine—

**Mr. Peter Kormos:** But you can list it on a CV. You could say, "Well, I was in this country and this country. I took this training and belonged to that body and was

certified by that body." The bill doesn't prevent you from doing that. It's all about the letters after the name, and that seems to me to be a really silly thing to be disputing, quite frankly. If you can have a big sign in your window saying, "I am a member of the Chartered Institute of Management Accountants"—and you can; nothing in this bill prevents you from doing that. It can be neon. It can be flashy. It can be a billboard. You can run TV ads saying, "Valookaran: Distinguished Member of the Chartered Institute of Management Accountants," and nothing that's coming from the other side suggests that that's not the case, except that they won't let you put "CIMA" after your name—not that they won't, but they want legislation. For the life of me, I'm going to think about that till late into the evening.

**Mr. Antoo Valookaran:** All my clients are Indian immigrants. If I put "CA" in there, it will give weight. That's a source of my clientele. If they see that, they will come to me—

**Mr. Peter Kormos:** I'm on side. Talk to those guys.

**Mr. Antoo Valookaran:** Well, it's all to the committee.

If you restrict that, that means you're restricting my source of income, because that's one of the things that attracts clients to me.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. Valookaran, for your comments and your presentation. They're very much appreciated.

We have three housekeeping items before we adjourn today.

I want to go back and see: Has anyone arrived from the Institute of Management Accountants? One final check? Seeing none, thank you.

The deadline for filing amendments is 5 o'clock on Tuesday, April 27. That's an administrative deadline.

Seeing no further business, we are adjourned—

**Mr. Peter Kormos:** Chair?

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Kormos?

**Mr. Peter Kormos:** I'm so glad you were here this afternoon.

**The Vice-Chair (Ms. Leeanna Pendergast):** It's been a pleasure. Thank you.

**Mr. Peter Kormos:** The afternoon has run smoothly. We elected you Vice-Chair this morning. I'd support you as Chair too—and you make more money as Chair.

**The Vice-Chair (Ms. Leeanna Pendergast):** Come on. Where do we begin?

**Mr. Peter Kormos:** It's true. Nobody told you that?

**The Vice-Chair (Ms. Leeanna Pendergast):** No.

**Mr. Peter Kormos:** Well, they should have.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, sir. Was there a further point—not that there needs to be one.

**Mr. Peter Kormos:** No. You're Chair material. You're too good to be a Vice-Chair.

**The Vice-Chair (Ms. Leeanna Pendergast):** We are adjourned until Thursday, April 29 at 9 a.m. Thank you.

*The committee adjourned at 1708.*



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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 29 April 2010

# Journal des débats (Hansard)

Jeudi 29 avril 2010

## Standing Committee on Justice Policy

Accounting Professions  
Act, 2010

## Comité permanent de la justice

Loi de 2010  
sur les professions comptables

Chair: Lorenzo Berardinetti  
Clerk: Susan Sourial

Président : Lorenzo Berardinetti  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICY

Thursday 29 April 2010

COMITÉ PERMANENT  
DE LA JUSTICE

Jeudi 29 avril 2010

*The committee met at 0903 in committee room 1.*

## ACCOUNTING PROFESSIONS ACT, 2010

LOI DE 2010

## SUR LES PROFESSIONS COMPTABLES

Consideration of Bill 158, An Act to repeal and replace the statutes governing The Certified General Accountants Association of Ontario, the Certified Management Accountants of Ontario and The Institute of Chartered Accountants of Ontario / Projet de loi 158, Loi visant à abroger et à remplacer les lois régissant l'Association des comptables généraux accrédités de l'Ontario, les Comptables en management accrédités de l'Ontario et l'Institut des comptables agréés de l'Ontario.

**The Chair (Mr. Lorenzo Berardinetti):** Good morning, everybody. I'd like to call this meeting to order. The Standing Committee on Justice Policy is meeting today to consider Bill 158, An Act to repeal and replace the statutes governing The Certified General Accountants Association of Ontario, the Certified Management Accountants of Ontario and The Institute of Chartered Accountants of Ontario.

Are there any comments, questions or amendments to any sections of the bill? And, just before we start, I wanted to ask one question myself, and that is, we have three schedules, A, B and C, which we have to deal with, besides sections 1, 2 and 3 of the bill. I would ask for unanimous consent that we go through the schedules first—schedules A, B and C—and then return and do sections 1, 2 and 3.

**Mr. Peter Kormos:** Sounds fair enough. Agreed, Chair. That's reasonable.

Chair?

**The Chair (Mr. Lorenzo Berardinetti):** Agreed? Okay. Thank you.

Mr. Kormos?

**Mr. Peter Kormos:** I've had a chance to look at the motions that have been submitted. There may well be more coming from the floor, if you will, during the course of this morning or the balance of today, but when I take a look at the government amendment on page 4 of the bundle—

**Mr. David Zimmer:** Sorry; I didn't hear you for the noise.

**Mr. Peter Kormos:** I've taken a look at the motions that have been filed, and I take a look at the government

amendment on page 4, which seems to be very much the same amendment that the government was floating around. It was version number 3, as I recall it, with the three big—how come this government is prepared to take on so-called pharmacists but it won't take on intransigent accountants?—in any event, the big three: the CAs, the CGAs and the CMAs, but they stop there. There has been no movement from last week. The government has become intransigent. I'm simply offering this up to the government and Mr. Zimmer, the parliamentary assistant, for whom I have great regard, and that is that if he were to request a one-week adjournment of this clause-by-clause consideration, I would certainly agree to it, so that the government might get it right this time. In the course of seven days, they may just manage to do that.

So I'm just offering that up, Chair. The government hasn't got it right yet. If seven more days would help, I'd be more than pleased to accommodate them.

**The Chair (Mr. Lorenzo Berardinetti):** I think we need unanimous consent to do that.

**Mr. Peter Kormos:** I agree; one-week adjournment.

**Mr. David Zimmer:** No.

**Mr. Peter Kormos:** Mr. Zimmer doesn't; I understand.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no from Mr. Zimmer, so we won't adjourn for a week.

We'll proceed—

**Mr. David Zimmer:** Chair, I'm having trouble—just because the window is open, and I do want to keep the window open for the breeze, but you just have to speak a little louder or I'm going to miss something. I don't want to miss anything.

**The Chair (Mr. Lorenzo Berardinetti):** My apologies. Okay. Sorry.

**Mr. Peter Kormos:** I understand, Mr. Zimmer. That, too, is a function of age.

**Mr. David Zimmer:** I feel like I'm in a tank full of sharks here.

**The Chair (Mr. Lorenzo Berardinetti):** What we're going to do is we're going to stand down sections 1, 2 and 3 of the bill and go to the first schedule, which is schedule A. That's going to be the first item we're going to deal with. Hopefully, we're all working from the same package of amendments, which is on that table there. It came in an elastic to our offices, but there are extra copies on the table. The first motion to be considered is on page 1, and it's a PC motion.



First of all, there are no amendments on schedule A, sections 1 to 25. So if there is no debate on those sections—

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry?

**Mr. Peter Kormos:** There is debate.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Mr. Kormos, go ahead.

**Mr. Peter Kormos:** We're not going to make a great issue of it. Let's not ignore the fact that schedules A, B and C are not uniform, in that there are significant variations from schedule A to schedule B to schedule C. The stated objective, if it has been stated, of harmonizing these three areas has not been achieved by the government. That causes me some concern, but since the CAs, CGAs, CMAs seem to have been dictating these schedules and the government has been merely taking notes and doing the shorthand—as I say, it gives that impression. I could be wrong, I suppose; it certainly allows one to draw that inference. I just wanted to make that point. Let's not delude ourselves here—or the public, for that matter.

**The Chair (Mr. Lorenzo Berardinetti):** Any more discussion of schedule A?

**Mr. Peter Kormos:** And I'm prepared to proceed with voting on those as a block, up to clause 26.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. So I'll put the question forward, then. Shall sections 1 to 25 in schedule A carry? All in favour? Opposed? Carried.

We'll move to the next set of sections, which is section 26.

**Mr. Peter Kormos:** Mr. Chudleigh's motion.

**The Chair (Mr. Lorenzo Berardinetti):** Section 26 is a PC motion. So 26(1)(a) on pages 1 and page 2. So we'll do the one on page 1 first, and that's Mr. Chudleigh.

0910

**Mr. David Zimmer:** I just want to be clear: So we're doing number 1?

**The Chair (Mr. Lorenzo Berardinetti):** Yes. We're finally starting on our package of amendments, and it's the very first page. It's section 26 of—

**Mr. Ted Chudleigh:** We're going to start with number 1. It seems like a good place to start.

**Mr. David Zimmer:** Thank you.

**Mr. Ted Chudleigh:** I move that clause 26(1)(a) of schedule A to the bill be struck out.

This motion will make the act almost identical to Ontario's Public Accounting Act and will mean subsection (1) better corresponds to section 2, which protects the rights of practising accountants who are not members of the association. This motion continues to prohibit an individual from implying that they are practising as or from holding themselves out to be a certified general accountant, but it recognizes the diversity within Ontario's accounting profession and better corresponds to the government's policy of the Open Ontario initiative.

I can't understand why the government would be closing the accounting practices where 170 countries in

the world recognize these other accountants, the CIMAs and ACCAs. Ontario doesn't, yet Ontario has an initiative that talks about opening Ontario. This actually closes Ontario. So I would recommend that the government support this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Mr. Kormos?

**Mr. Ted Chudleigh:** I'd like a recorded vote.

**Mr. Peter Kormos:** I'll just wait until people are off their BlackBerry. Thank you.

I expect I'll be making the same comments, and I'll simply refer to this comment, when we're dealing with a similar provision in the other amendments to the schedules.

Look, this whole debate started to seem rather silly, because I'm convinced that it was really about the initials. It was about the letters after a name, at the end of the day.

The language that's used is also very, I suppose, frightening. Paragraph (b): "take or use any term, title ... implying that the individual is...." If it said, "with intent to create the impression," I could understand it, but "implying" is such a, quite frankly, loosey-goosey term, one that I suspect at the end of the day the courts will have fun with. I'd prefer "implying" as prepared to "allowing the reader to infer that," because "implying" requires a positive action of the part of the implier. Right, Chair? You understand what I'm saying.

**The Chair (Mr. Lorenzo Berardinetti):** It's up to the courts to interpret—

**Mr. Peter Kormos:** Just one moment. I'll wait until others are finished their communications.

**Ms. Leeanna Pendergast:** I'm totally listening to you, Mr. Kormos, but I've got an emergency. I'm totally multi-tasking. I can do both. Thank you.

**Mr. Peter Kormos:** You see, it's very rude to use BlackBerrys and communicate with somebody else in the course of a committee meeting. People who are watching us might infer that some people weren't paying close attention; similarly with people whispering to each other.

So implying something is far different than allowing somebody to infer. That requires a positive act, and that's fair enough, I suppose. In that respect, the test is a little higher. But the "with intent to" seems to me to be an even more appropriate test, because I agree with all of the submissions made that we should protect people from con artists, from flim-flam artists, from people who would fraudulently claim to be certified with a legitimate regulatory body, be it a statutorily determined body or not. For the life of me, I don't know how, at the end of the day, the courts will ever prohibit anybody from saying, "I am a member of the UK CIMA." It seems to me just impossible for any statute to ever forbid somebody to describe the fact that they are a member in a particular legitimate organization. It's not Hezbollah, for Pete's sakes; it's CIMA.

**Mr. Ted Chudleigh:** Especially in open Ontario.

**Mr. Peter Kormos:** Especially, as Mr. Chudleigh says, in open Ontario.



So I thought about it last night. God forbid: I'm sure there's nobody who would want to pretend to be me, at least in the province of Ontario, but it would be like me saying that somebody whose name was similar to mine wasn't going to be allowed to use their name because they might be confused with me. That would be a pretty bizarre thing, wouldn't it, Chair? I see you're nodding in the affirmative. Of course, I understand—

**The Chair (Mr. Lorenzo Berardinetti):** I'm paying attention.

**Mr. Peter Kormos:** You are, as compared to others. Chair, it's in your ambit, within your powers, to direct that people not use BlackBerrys during the course of the committee. I'd ask you to direct that. Are you prepared to do that? Are you going to decline to do that?

**The Chair (Mr. Lorenzo Berardinetti):** I think it's up to individual members if they want to use or not use their BlackBerrys. I can't—we're working with the bill.

**Mr. Peter Kormos:** Of course, you're right. You couldn't control it if somebody was nodding off or going off into dreamland or the OxyContin had taken effect and they were off in another dimension.

I agree with the amendment. I disagree with the government's effort to suppress foreign-trained professionals' prerogative to identify legitimate and long-standing bodies they are members of. I find it as absurd as suggesting that somebody whose name was similar to Lorenzo Berardinetti be prohibited by you from using that name—their birth name, their birthright—just because it was similar to yours and they might be confused for you by an inattentive party.

Mr. Chudleigh has asked for a recorded vote. Here we go.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, any further debate on this amendment?

Mr. Chudleigh has requested a recorded vote.

#### Ayes

Chudleigh, Kormos.

#### Nays

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

On page 2, there is another amendment. It's a Conservative amendment: Mr. Chudleigh.

**Mr. Ted Chudleigh:** I notice that Mr. Zimmer has an assistant beside him. I know that lawyers need a lot of help, and I wonder if it's appropriate that I also have an assistant beside me. I realize that I'm not a lawyer, but is it possible that I could have an assistant beside me, the same as Mr. Zimmer does?

**Mr. Peter Kormos:** Chair, if I can speak to that: Some Chairs have ruled that non-members are not entitled per se to sit at the committee table. I respect that ruling. However, in the interest of us moving along at a

reasonable rate of speed, I find it not dissimilar to bureaucrats sitting beside a minister during the course of committee of the whole—we haven't had committee of the whole for a long time here.

**Mr. Ted Chudleigh:** Nor are we likely to.

**Mr. Peter Kormos:** I look back with fondness on exercises in committee of the whole. As you know, in committee of the whole, the staff—the advisers—are allowed to sit beside the minister, so I'm prepared to agree that Mr. Zimmer's staff be sitting beside him, because it's simply going to help things, not hurt things.

**Mr. David Zimmer:** And I can say, Chair, that last week I did clause-by-clause on the Election Act, along with Mr. Kormos—I think you were on that also, Mr. Chudleigh—and the Chair of that committee, in answer to my request, said it was fine to have someone, as long as they didn't sit at the table but sort of to the side.

**Mr. Peter Kormos:** Well, for Pete's sake, let her sit at the table. Move up to the table so that you can look at your notes on the table. Why are we playing these games?

**The Chair (Mr. Lorenzo Berardinetti):** I think it's okay if the staff person sits a little bit back or behind but not right at the table.

**Mr. Peter Kormos:** Chair, I'm not going to mistake her for a member. I know the members. She may be one in due course, but I'm not going to mistake her for one.

**Mr. Ted Chudleigh:** It's appropriate to have someone with you.

0920

**The Chair (Mr. Lorenzo Berardinetti):** If there's unanimous consent to have someone beside you, if everyone agrees to that—

**Mr. Peter Kormos:** Agreed.

**Mr. David Zimmer:** Agreed.

**The Chair (Mr. Lorenzo Berardinetti):** Is that agreed to? Okay, agreed. You can move up. I guess there's someone joining Mr. Chudleigh as well. This might help procedurally. We want to get the bill right, or at least the amendments that we have to go through.

**Mr. Ted Chudleigh:** Moving to the next amendment, I move that clause 26(1)(a) of schedule A to the bill be amended by striking out "alone or in combination with other words or abbreviations" at the end.

By removing this part of clause 26(1)(a), individuals are prohibited from using the specified designation or initials. However, it recognizes the reality that in combination with other words or abbreviations, this subsection is overly broad and could create an undesirable situation where all individuals, except those who are members of the association, are unable to verify their accreditation and training.

Despite this motion, this section will continue to contain full protection for the public and for the association. However, it avoids banning any use that incorporates one or more of these words or initials, even where properly differentiated.

**Mr. Peter Kormos:** I agree.



**Mr. Ted Chudleigh:** I'd like a recorded vote on this, please.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? Okay, a recorded vote.

#### Ayes

Chudleigh, Kormos.

#### Nays

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

The next amendment is a PC motion on page 3, but I'm going to rule that this one is dependent on the first motion from page 1, and since that didn't carry, this one would then be redundant.

#### Interjection.

**The Chair (Mr. Lorenzo Berardinetti):** Maybe you're looking at the wrong package. I do apologize, but at the start of the meeting, I indicated that there was a new package. It's on the table there. On page 3, there is a PC motion—

**Mr. David Zimmer:** All right, Chair. Just give me a second to organize my paper, okay?

**The Chair (Mr. Lorenzo Berardinetti):** Okay.

**Mr. David Zimmer:** Sorry. Thanks, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Because the motion on page 1 didn't carry, this one is deemed redundant, all right? So we'll move on from there.

On page 4, a government motion: Mr. Zimmer.

**Mr. David Zimmer:** I move that subsection 26(2) of schedule A to the bill be struck out and the following substituted:

"Exceptions

"(2) Clauses (1)(a) and (b) do not apply to an individual in any of the following circumstances:

"1. The individual uses a term, title, initials, designation or description when making reference to authentic professional accounting qualifications obtained by the individual from a jurisdiction other than Ontario in,

"i. a speech or other presentation given at a professional or academic conference or other similar forum,

"ii. an application for employment or a private communication respecting the retainer of the individual's services, if the reference is made to indicate the individual's educational background and the individual expressly indicates that he or she is not a member of the association and is not governed by the association, or

"iii. a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the individual meets the requirements for the work to which the request for proposals relates.

"2. The individual uses a term, title, initials, designation or description as authorized by the by-laws.

"Same

"(2.1) For the purposes of subparagraph 1 ii of subsection (2), stating the name of the jurisdiction from which the qualifications were obtained after the term, title, initials, designation or description is not sufficient to expressly indicate that the individual is not a member of the association and is not governed by the association."

**The Chair (Mr. Lorenzo Berardinetti):** Any comments? Mr. Chudleigh.

**Mr. Ted Chudleigh:** Does this exemption ensure that communications between members who are not part of the association but are part of another organization will not be limited—communication between members who are not members of the association?

**Mr. David Zimmer:** Well, the amendment speaks for itself. It's designed to relieve many of the concerns that were expressed to the government that accountants with foreign designations would not be able to mention their qualifications to potential employers or clients. But it is, nevertheless, important to ensure that clients are not misled into thinking that the person is subject to supervision locally.

**Mr. Ted Chudleigh:** And what other Ontario professionals with foreign training and credentials are limited in a manner similar to the prohibition in this act? Are there other examples in our society that limit the professional with a foreign designation?

**Mr. David Zimmer:** I have no comment on that.

**Mr. Ted Chudleigh:** You realize that Ontario is the only jurisdiction in the world that is doing this? Some 170 countries recognize these designations, and Ontario, open Ontario, does not. You recognize that?

**Mr. David Zimmer:** Your comments are in Hansard now.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** This is an—

**Mr. Ted Chudleigh:** Recorded vote.

**The Chair (Mr. Lorenzo Berardinetti):** Sorry. I think Mr. Kormos—

**Mr. Peter Kormos:** This is an interesting amendment, and it's one that we're not unfamiliar with, because this is, as I understand it, amendment number three: the third version of the amendment that was floated out there amongst some, at least, if not all of the interested parties.

What is interesting—because you take a look at this amendment in the context of clause 26(1)(d). I'm grateful to the drafters for having, in clause (d), written, "otherwise hold himself or herself out as a Certified General Accountant"—otherwise hold oneself out as a CGA, obviously referring to (a), (b) and (c). I anticipate that when charges are laid under this section, people being charged, perhaps on their own or through counsel, will suggest that it's all about holding oneself out to be a CGA—in other words, fraudulent—because it's inescapable that clause (d) helps define paragraphs (a), (b) and (c).

That means that this is still hokum, because the goal is to prevent people from fraudulently identifying them-



selves as a member of a particular body when they're not a member of that body. There's nothing wrong with that goal in and of itself. I don't know; I suspect there may be provisions in the Criminal Code that would allow for prosecutions of that sort of thing, depending on how it took place, like uttering a forged document. It's fraud.

So now when we have the inclusion of the new subsection (2), we have a provision that might imply that you can fraudulently hold yourself out, because it's not restricted by the "otherwise" if it's in the context of a speech, an application for employment or a proposal made in response to an RFP.

I just find this really silly and contradictory stuff, and that's why I'm going to vote for this amendment: because I think it will give the defence lawyers grist when it comes time to challenge these sections and have them tossed so far out of court that they go into the black hole of bad legislation. So I'm going to, however mischievously, support this amendment because I think it helps to demonstrate how silly and futile and feckless subsection 26(1) is.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further discussion?

**Mr. Peter Kormos:** I could be being damned by faint praise. I don't know, Mr. Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** None? I think Mr. Chudleigh requested a recorded vote on this.

#### Ayes

Chudleigh, Johnson, Kormos, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** None opposed, so that carries.

We'll move on to page 5 of our package. This is a PC motion, again to do with clause 26. Mr. Chudleigh, if you could just read the motion into the record.

0930

**Mr. Ted Chudleigh:** I move that clause 26(3)(a) of schedule A to the bill be struck out.

**The Chair (Mr. Lorenzo Berardinetti):** Any comments?

**Mr. Ted Chudleigh:** This motion addresses concerns heard by this committee regarding foreign designations. It continues to prohibit a corporation from implying it is practising or holding itself out to be a corporation of certified general accountants, but clause (a) is so broad that it unfairly limits a corporation besides those whose partners are members of the association.

Again, to Mr. Kormos's point, we're all in favour of not having someone fraudulently present themselves as having qualifications that they don't have. We just don't think the bill does that in this clause or that this section of the bill does that in a very clear and open manner, which may cause problems down the road.

**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? Mr. Kormos.

**Mr. Peter Kormos:** I was reading this morning's papers and listening to news last night. I suppose the only thing that Mr. Jaffer's friend didn't claim to be, when he was at the parliamentary committee in Ottawa yesterday, was a CGA. I don't know if that's of any comfort to CGAs or not.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further discussion? None? Did you want a recorded vote, Mr. Chudleigh?

**Mr. Ted Chudleigh:** Yes, please.

#### Ayes

Chudleigh, Kormos.

#### Nays

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We'll move on to page 6 of our package. This is another PC motion. Mr. Chudleigh.

**Mr. Ted Chudleigh:** I move that clause 26(3)(a) of schedule A to the bill be amended by striking out "alone or in combination with other words or abbreviations" at the end.

**The Chair (Mr. Lorenzo Berardinetti):** Discussion?

**Mr. Ted Chudleigh:** This is the same. This motion, for the reasons stated previously, is overly broad and inherently unfair and interferes with the rights and practices of other accountants in Ontario.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Okay, do you want a recorded vote on this?

**Mr. Ted Chudleigh:** Yes, please.

#### Ayes

Chudleigh, Kormos.

#### Nays

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry. We'll move on to page 7 of our package. This is another PC motion. Mr. Chudleigh.

**Mr. Ted Chudleigh:** I move that section 26 of schedule A to the bill be amended by adding the following subsection:

"Exception re foreign designations

"(4) Clauses (1)(a) and (b) and (3)(a) and (b) do not apply to the use of a designation, initials, term, title or description when making reference to an authentic accounting accreditation obtained from a jurisdiction other than Ontario, if the reference is immediately followed by a reference to the name of the jurisdiction."

Again, this is clarification.



**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? Mr. Kormos.

**Mr. Peter Kormos:** This amendment responds to the submissions of a number of parties when we were here last week hearing folks. I do want to indicate that I talked to Ms. Elliott last week about which amendments she was contemplating. I had no intention of duplicating them and making legislative counsel do the extra work, because it would be extra work for legislative counsel. That is fine that Ms. Elliott and the Conservatives do the heavy lifting—no offence to me at all.

This makes eminent good sense. We may be surprised when we see government support this motion. From the looks on their faces, they may be surprised if they see government support for this motion. What it does is it's sort of specific about, again, the letters—the alphabet soup, as I refer to it and, surprisingly, as one of the accounting bodies referred to it—that follows people's names. It would say whatever the CIMA designations are and then “(UK).” I suppose a comparable scenario would be for Mr. Zimmer, if he were outside of Ontario, to say “David Zimmer, a member of the Law Society of Upper Canada.” He couldn't call himself a barrister and solicitor, but he could identify himself as a member of the Law Society of Upper Canada, I believe, in most Canadian provincial jurisdictions. That's pretty clear, except nobody knows what Upper Canada is any more except old people. If people bothered to find out, it would be clear that he wasn't a lawyer in Alberta, or a barrister and solicitor, but he's a member of the Law Society of Upper Canada.

So this effectively does the parallel thing, and it's useful. This is an understanding of the multicultural nature of this province and this country. The reality is that—for instance, we heard from people from Sri Lanka, amongst other places. There are a whole lot of people from Sri Lanka. Whether they identify themselves as Sri Lankans or as another ethnicity is a different point, but there are a whole pile of folks from Sri Lanka who understand what that designation means, because they're from Sri Lanka, and in Sri Lanka that has the same status or stature of being a chartered accountant or a certified general accountant. Why should we deny those people the opportunity to be able to identify somebody who may be—if, for instance, they were doing work with Sri Lanka, if they were involved in trade between Ontario and Sri Lanka, if they were entrepreneurs or any number of possible scenarios, why should we deprive them of knowing that somebody, for instance, is certified as such in that country and make it clear that they understand the nature of that country's accounting culture?

This seems to me to be the most modest of proposals and in many respects a fair compromise. Well, it's not really a compromise, because “compromise” presumes that people are giving something up. This is a solution. Nobody is giving anything up. It doesn't detract in any way, shape or form from CA, CGA, CMA.

Again, it was the chartered accountants, I believe, who in their submission made reference to the fact that this

has been going on since the days of Prime Minister St. Laurent. I pointed out that in the days of Prime Minister St. Laurent, people weren't coming here from Sri Lanka; people weren't coming here from India; people weren't coming here from China; people weren't coming here from African countries. My people were coming here, and, trust me, we weren't CAs or CGAs or accountants. My people from Eastern Europe were, by and large, illiterate. They only held themselves out to be hard-working, honest people. Nobody deprived them of that, did they?

So the world has changed. Canada has changed. It seems to me that we are doing ourselves a disservice, a serious disservice, by not understanding—this acquires a Quebec quality. In Quebec, as you know, there is a current trend that is remarkably similar to the trend in France itself that prevents people from displaying religious faith, especially women, by wearing head coverings or face coverings. Regardless of how you feel about them, you know the controversy in Quebec, because there have been decisions made that would forbid women to abide by their faith. This has the same sort of quality to it, it seems to me, that ethnocentric, xenophobic quality that does a disservice to all of us and that insults people who come here from other parts of the world, as if somehow all of us at some point, as was pointed out, didn't take a boat here. Short of aboriginal and native peoples, all of us came here on a boat. What was the follow-up to that line? “And we're in the same boat now.” That's a little too cutesy for me. It's a little too Bob Raeish, too—that song that he wrote.

But this solves the problem. How could anybody object to this solution? This allows people to advertise the fact that they received qualifications. Quite frankly, I find it interesting, because, of course, if you have a bachelor of arts degree—you could have a bachelor of arts degree from one of the crummiest diploma mills in America and still put “B.A.” You could have a Ph.D. Then there are those people who call themselves doctors because they have a Ph.D. in sociology, which is not part of our North American culture. I find those people incredibly pretentious. In Europe, professionals are called “doctor,” historically. As I say, you can put “Ph.D.” after your name, with all of its implications, even if you've got an honorary Ph.D. There are the kind of people who do that too and who call themselves “doctor” to boot. I find that phoney and stupid, and immediately that identifies those people as shallow people who shouldn't be trusted, intellectually or otherwise.

**0940**

We have that phenomenon here, and we don't seem to be very rigorous about that; yet, here we are, pretending, under the guise of rigorism, we are denying people the opportunity to display lawful, creditable, credible accomplishments. This is very, very contrary to the goals that everybody says we have in this country about recognizing foreign-trained professionals, isn't it? This is a step backward. I don't know. I understand why the government may have voted against the earlier PC motions,



the earlier amendments. I'm hoping—I'm keeping my fingers crossed; I've got my legs crossed—that good sense will prevail as compared to the harsh crack of the whip of the whip over on the government side.

You know, there are two votes here and there are five votes there. If two people on the government benches supported this amendment, they would be applauded in that immigrant community, the community of new Canadians. They would be applauded by second-, third- and fourth-generation Canadians who understand that they came here on a boat, too. They would be applauded by fair-minded people, and, at the end of the day, they'll probably find themselves re-elected in their ridings, simply because they demonstrated integrity, courage and more than a little bit of honesty and goodwill. Let's see what happens, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for that.

Mr. Chudleigh, you requested a recorded vote on this?

**Mr. Ted Chudleigh:** Recorded vote, yes.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Again, we're on page 7 here, the PC motion, moved by Mr. Chudleigh.

#### Ayes

Chudleigh, Kormos.

#### Nays

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We'll move to page 8 of our package. It is another PC motion. Mr. Chudleigh.

**Mr. Ted Chudleigh:** I move that section 26 of schedule A to the bill be amended by adding the following subsection—we'll try again:

"Exception, no advertising

"(4) Clauses (1)(a) and (b) and (3)(a) and (b) do not apply to the use of a designation, initials, term, title or description in a communication that does not involve advertising accounting services to the public."

Again, the reasons are very similar. It allows for the designation to be used with the exception of advertising. There's also the fact that—I don't know how many CAs, CMAs, CGAs with an Ontario designation are working around the world, but I suspect it would be a considerable number. I would just hope that, in the future, other countries who recognize that Ontario does not recognize their designations indicate that Ontario designations wouldn't be recognized around the world. Again, that's a consequence of talking about Open Ontario, and yet, in fact, closing Ontario to other designations, albeit in a protected way.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Kormos.

**Mr. Peter Kormos:** New Democrats support that.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote—would you like a recorded vote, Mr. Chudleigh?

**Mr. Ted Chudleigh:** No.

**The Chair (Mr. Lorenzo Berardinetti):** No. We'll take a straightforward vote, then. All those in favour of the motion? Opposed? That does not carry.

**Mr. David Zimmer:** Chair, this is a matter of committee procedure, and I don't mean to be picky on this, but I think the correct procedure is for the Chair not to ask if a committee member wants a recorded vote but to just sit back, and if a member wants a recorded vote, it's incumbent upon them to make the request, not the Chair to ask them if they want it.

**The Chair (Mr. Lorenzo Berardinetti):** I appreciate what you're saying, but Mr. Chudleigh has a series of them here. When he started speaking, at first he said he wanted recorded votes on these. I may have misunderstood what he said, but I thought he'd requested recorded votes—

**Mr. David Zimmer:** Members will ask if they want a recorded vote. I think that's the clear procedure to be followed.

**The Chair (Mr. Lorenzo Berardinetti):** All right.

**Mr. Peter Kormos:** Chair, may I? Mr. Zimmer's quite right. That is the formal, hard-and-fast procedure. But we've broken a couple of rules already today—haven't we?—and relaxed formality. I understand your motive, and your motive is to be fair. I think that's an exemplary motive. While I don't disagree with Mr. Zimmer, I am compelled to acknowledge your authority as Chair to run this proceeding as you see fit, knowing full well that we don't have the ability to appeal any of your rulings. You are the Chair. In effect, you're making a ruling when you show the interest in fairness by soliciting a request for a recorded vote. But it's up to you. I agree with Mr. Zimmer, but it's up to you, because you're the Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. This is a package of amendments that he had requested. I'm just respecting the member. He had said, "I want recorded votes."

**Mr. Ted Chudleigh:** I would just comment, Chair, that I hope you realize that you've been warned by the government as to your proceeding.

**Mr. Peter Kormos:** Oh, Mr. Zimmer's not like that.

**Mr. Ted Chudleigh:** Well, it sounded to me like a warning. You can take that as it may be.

**The Chair (Mr. Lorenzo Berardinetti):** Thanks.

Now I've lost my place, but I think we're on page 9 now. This is a government motion. Mr. Zimmer.

**Mr. David Zimmer:** We voted on 8?

**The Chair (Mr. Lorenzo Berardinetti):** Yes.

**Mr. David Zimmer:** I move that section 26 of schedule A to the bill be amended by adding the following subsections:

"Exception

"(4) Clauses (3)(a) and (b) do not apply if a corporation uses a term, title, initials, designation or description when making reference to authentic professional



accounting qualifications obtained by the corporation from a jurisdiction other than Ontario in a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the corporation meets the requirements for the work to which the request for proposals relates.

“Non-residents, etc.

“(5) Nothing in this section affects or interferes with the right of a person to use any term, title, initials, designation or description identifying himself or herself as an accountant, if the person does not reside, have an office or offer or provide accounting services in Ontario.”

This mirrors government motion number 4, but this relates specifically to corporations—that is, a collection of accounting professionals and so on who are doing an RFP.

I just want to take a minute now, because there are a number of amendments that are following. We’ve dealt with a few now. I thought I’d take this opportunity to put this on the record once and then I don’t have to do it for the various amendments. I’ll refer to my comments made at government motion number 9.

Nothing in the bill affects the ability of an individual to practise accounting in Ontario. One of the intents of Bill 158 is to protect potential consumers of accounting services from confusion about the qualifications of accountants and to ensure greater public transparency for the accounting profession.

Bill 158 does not regulate accounting. Bill 158 provides powers to Ontario’s accounting bodies to regulate their members.

Each of the three accounting bodies under this bill provides designations to its members. Bill 158 restricts the use of foreign designations that may be confused with Ontario designations. There is no restriction on the use of designations that will not reasonably be mistaken to be an Ontario designation.

The government takes no position on the qualifications of foreign-trained accountants. The sole reason for restricting the use of foreign designations is to ensure that Ontario consumers know which accountants are subject to regulation in Ontario.

**0950**

With the government’s proposed amendments, Bill 158 would allow a broader use of many foreign designations in Ontario than ever before. For instance, foreign chartered accountants will be able to use their designations to outline their educational background in a job application or in a private conversation where they are attempting to get someone to retain their services, as long as they indicate that they are not regulated by an Ontario accounting body. They will also be able to use their foreign designation while giving a speech or responding to an RFP. They are not permitted to do any of these things under current legislation.

The government’s proposed amendments provide a balanced response to the concerns expressed about the use of foreign designations in Ontario. The proposed amendments will provide that authentic foreign designa-

tions can be used in a speech or other presentation; an application for employment or private communication respecting the retainer of an individual’s services if the reference is made to indicate the individual’s educational background and the individual expressly indicates that he or she is not a member of or governed by an Ontario regulatory body; or a proposal submitted in response to a request for proposals.

That’s the intent of the legislation, and weaved throughout the various amendments that the government is presenting today is a furtherance of that intent. That’s the core philosophy with which we approach this issue, and I think those comments will be applicable to the various proposed amendments, both government and NDP and Conservative, that we deal with today. So I wanted to just take a moment now and get that overview, if you will, on the record, rather than nitpick along with various technical comments at each proposed amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. First Mr. Kormos, then Mr. Chudleigh.

**Mr. Peter Kormos:** Well, I’m grateful to the parliamentary assistant for putting that on the record. He’s right. Bill 158 is not about regulating accountants. It has nothing to do whatsoever with regulating accountants. I appreciate the clarity in that regard.

He’s right—that is to say, correct—when he observes, on behalf of the government, because he is the parliamentary assistant and these observations on his part are made on behalf of the government, that this simply gives three identified accounting bodies the power to regulate internally. He’s right when he says that the government doesn’t pass judgment on any of these bodies, because it surely doesn’t pass judgment on the CGA, CMA and CA as well. So there’s nothing in what the government says or does today, or nothing in this bill, that says the CGAs, CAs and CMAs have standards that the government endorses. Mr. Zimmer, the parliamentary assistant, acknowledges on behalf of the government that any one of these bodies could be deficient in the standards that they impose upon their members, the implication being that one shouldn’t necessarily trust “CMA” or “CGA” or “CA” after a name. A worthy contribution by the parliamentary assistant.

This clarification on the part of the government becomes even more interesting, and one that I trust cunning lawyers, vulpine lawyers, will address—

**Mr. David Zimmer:** What kind of lawyers? I didn’t hear that.

**Mr. Peter Kormos:** Vulpine.

**Mr. David Zimmer:** Ah, thank you.

**Mr. Peter Kormos:** They will address their attention to the fact that, while three bodies were given statutory powers, other bodies weren’t. This seems to be oh, so arbitrary. What about the—and I’m grateful to the legislative researcher, Ms. Hynes, who prepared the paper on the Society of Professional Accountants of Ontario. Remember? They were here. They said they’ve been talking to this government—and previous governments, I



presume. They were the ones with correspondence with the government and its parliamentary assistant seeking inclusion in a statutory regime that allowed them to regulate their members as well, with no good reason being offered up. So it appears that there were bodies arbitrarily excluded from this bill. What about CIMA? They were arbitrarily excluded.

The government says that this is about the consumer—correct me if I'm wrong—not being misled. Well, hell's bells. Go out there on the street right now and ask people what the difference is between a CA, a CGA and a CMA. Lord thundering, most of us weren't even really clear until we passed that legislation several years ago on public accounting. We got some education on these three different bodies, and don't forget that the CGAs are being excluded from public accounting.

Give me a break. CA, CGA, CMA: The general public has no bloody idea what distinguishes one from the other. The only response is, "Well, it's more sophisticated, and corporate bodies that will be retaining them—so they would know the difference between a CGA, a CA and a CMA." The same sophisticated corporate body, then, would also know the difference between a CGA and a member of CIMA and would know the difference between a CGA and a member of an accounting body from Sri Lanka.

The comments on the record underscore for me that this is so hollow. This is all fluff and no substance. The bill displays itself to be nothing other than an appeasement, with no real interest in the consumer. The government has acknowledged that it's not regulating accountants. Well, then, fine. I trust that by trademark law, the areas of law that I have no familiarity with, the certified general accountants have a control. As a matter of fact, in a letter from the government, through its parliamentary assistant, to one of the bodies seeking inclusion, it seemed to me that the author of that letter—and we have it in our records here—made it clear that the recourse of that body, since it wasn't included in a statutory regime, was to use the civil courts and pursue its remedy under, I presume, things like trademark law. Well, CGAs can do that anyway. As I say, I believe there's potentially even a criminal process if a person defrauds a client or a customer by holding himself out to be something that he's not.

Put that down in the context of—are we on to page 9 yet? Those comments were with respect to that amendment, I trust.

**Mr. David Zimmer:** Yes, government motion 9.

**Mr. Peter Kormos:** What a silly amendment. Take a look at this. Look at subsection (5): Nothing affects non-residents. No kidding. If you're not practising in Ontario, how the heck could they possibly affect you? It's like Pierre Trudeau said many years ago: He never smoked marijuana in Canada, because, of course, it's not contrary to Canadian law if you're smoking it in Marrakesh or, indeed, even across the border in a small ski hut in Vermont.

Of course it doesn't apply to accountants who aren't resident in Ontario. What are people going to do—take

the bridge from Hull to Ottawa, flash their card and then race back, and then the government is going to get the Quebec provincial police involved? Please. It's silly—silly.

Then subsection (4)—you see, this is where the government is creating grief for itself. Although it's *schadenfreude* on my part, I couldn't be more pleased. Because in subsection (4), it says it's okay if it uses the initials when making reference to demonstrate that the corporation meets the requirements for the work to which the request for proposals relates. Why wouldn't it be equally confusing there? Why wouldn't it be equally confusing in a proposal? Because we're agreeing that most people who use accountants who are qualified under any of these bodies tend to be more sophisticated and corporate clients. You're not helping the little guy down in Welland, the consumer, who sees Joe Blow, accountant preparing tax returns. You're not helping him at all, are you? He goes to that accountant presuming he's an accountant. He could be somebody with—well, H&R Block doesn't do a bad training session, I'm told, but he could be somebody who took a mail-order course.

**1000**

The government is doing nothing to protect that little guy, and it's acknowledging that, because it's not regulating accountants; anybody can practise as an accountant. Then it says it's to avoid confusion, but it's implicitly acknowledging that the clientele who is concerned about these postnominals, as we were told—I learned that word last week, "postnominal." I hope I wasn't misled. I haven't checked that. It could be a neologism, right, Mr. Zimmer?

So this sophisticated corporate client, who's relying upon the postnominals, is not likely to be misled or confused. In fact, the government acknowledges it in subsection (4), because if people can use these in RFPs, and we saw an earlier motion—where is that one?—that harkens back to the government amendment that we were made aware of during the course of the committee hearings, that you can use your initials in a speech, or when your CV is attached to your speech, or on an application for employment. What's going on here? The government implicitly accepts the proposal made earlier that you can use these postnominals if you identify the country in its amendment to subsection 26(2). This government—somebody's confused. Maybe it's me, I acknowledge. It has happened. But I'll leave that for the people who deal with this bill down the road, once it becomes law.

I think the government is creating—it's weaving and bobbing. It's ducking. It's trying to dance its way around the ring, and in the course of doing so it's denigrating its own legislation. Maybe this is what it's all about: Government members can go, at election time, to CGAs, CMAs and CAs for donations. I'm not suggesting that they will. Not for a minute am I suggesting that the Liberal Party of Ontario would solicit election funding from any of these three bodies or include them on their mailing list. What do I know? I'm naive about these sorts of things; I've been relatively sheltered.



But it seems to me that the business may well be an exercise in futility. It seems to me that maybe the CGAs, CMAs and CAs are being had, because the government has built in all of these—it's like that tape on Mission: Impossible. Remember, where the guy got the tape and then within 60 minutes it burst into flames and disappeared? This legislation, Bill 158, is like that tape. It's got the built-in detonators, because it's so inherently contradictory that it seems to me that even the most fundamental judicial review of it is going to have the judge having to suppress his smile as he contemplates the most polite language with which to toss this thing out the window and offend the least number of people.

So God bless. Good. Let her rip. Let's introduce more of these that explain how this bill is so self-contradictory, inherently contradictory, and nothing other than an appeal to those three large corporate bodies.

I don't know why they—why? What's wrong with the thousands of people who practise under the CIMA label? Doesn't the government want their money too at election time? It seems like a lost opportunity. But I'm being cynical, aren't I?

Thank you, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Mr. Chudleigh.

**Mr. Ted Chudleigh:** My comments will be somewhat briefer.

**Mr. Peter Kormos:** Let 'er rip.

**Mr. Ted Chudleigh:** Well, all right, then.

I have a concern that in clause 4, under the exception, it suggests that at the request-for-proposals stage, it's okay for a corporation to use the "title, initials, designation or description." What about the rest of the process? It's okay for the request for proposals, but after a request for proposal, conceivably there would be a contract; there would be reports; there would be the fulfillment of a contract; there would be a final report. What about during those parts of the process? Are they denied from using their titles during that process? Why is it only request for proposals? I think it's an incomplete amendment. I would like to see that fuller.

Also, under the non-residence, although I agree with my esteemed associate here that it may not apply, again, it refers to "an accountant," not a designated or an accredited accountant. I find that something that is of concern. I think it should say that.

Other than that, I think this motion is perhaps a little better than what's in the bill, so I'll be supporting this motion, but I think it falls a little short of what it could be.

**The Chair (Mr. Lorenzo Berardinetti):** All right; we'll take a vote on the government motion on page 9. All those in favour? Opposed? Carried.

We'll move on to page 10. This is a PC motion.

**Mr. Ted Chudleigh:** I withdraw this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Motion withdrawn.

So sections—

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Okay: All in favour of those? Opposed? Carried.

Sections 27 to 63—

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry. I'm getting ahead of myself here.

Shall section 26, as amended, carry?

**Mr. Peter Kormos:** Wait a minute. There's debate on this.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** We don't support it because the elimination of section 26, of course, would solve all the problems. New Democrats will be voting against it and asking for a recorded vote.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any more discussion?

A recorded vote has been asked for.

### Ayes

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

### Nays

Chudleigh, Kormos.

**The Chair (Mr. Lorenzo Berardinetti):** Section 26, as amended, carries.

There are no amendments to sections 27 to 63, so I'll put forward the question. Shall sections 27 to 63 carry?

**Mr. Peter Kormos:** One moment.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos?

**Mr. Peter Kormos:** Here are some areas where there's concern, because we're starting to get into the discipline, the complaints process. One of the broad, general concerns, and it applies to all three schedules—although the three schedules are not identical in these processes—is the lack of transparency, the lack of public access, and there appears just generally to be no way for a potential client to access whether or not the potential accountant has been subject to any of this discipline or reprimand or criticism. Again, this underscores that this is not a scheme for regulating accountants; this is a scheme for giving private bodies—this is part of the privatization agenda—powers to prosecute—

**Mr. Ted Chudleigh:** Wrong party.

**Mr. Peter Kormos:** Mr. Chudleigh says, "Wrong party." I think the Liberals inherited the mantle of Mike Harris and Ernie Eves and have developed it into a fine art. They've made privatization the status quo. What this is is the privatization of regulation, isn't it? Let's not kid ourselves. It's the government abandoning that goal.

1010

We have concerns, just in general, but, as I say, knowing that the bill only—because it's the bylaws of that private entity, the CA professional corporation, that the public has no input into whatsoever, nor does the



Legislature. They could have any standard they want—same with the CGAs; same with the CMAs—so there's no legislative oversight on that, although we're giving them carte blanche. And that's the nature of the beast; I understand that. I'm just raising those concerns.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the question, then. Shall sections 27 to 63 carry? That carries.

The next amendment deals with section 64. It's a government motion on page 11. Mr. Zimmer.

**Mr. David Zimmer:** I move that section 64 of schedule A to the bill be amended by adding "of the association" after "any power or duty."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mr. Peter Kormos:** Is there an explanatory note attached to this amendment?

**Mr. David Zimmer:** It corrects a drafting ambiguity. What it does is it ensures that the immunity from legal proceedings applies to members only when they're carrying out activities for the association. It does not provide immunity from professional negligence or professional discipline for actions that they do in their accounting practice as opposed to—

**Mr. Peter Kormos:** "Any power or duty of the association"—fair enough.

**Mr. David Zimmer:** Yes. As opposed to stuff they're doing for the association.

**The Chair (Mr. Lorenzo Berardinetti):** Any other discussion? All in favour of the amendment? Opposed? That carries.

Shall section 64, as amended, carry? All in favour? Opposed? Carried.

We'll move on to section 65. There is an amendment, a government one, on page 12 of our package. Mr. Zimmer.

**Mr. David Zimmer:** I move that paragraph 13 of subsection 65(2) of schedule A to the bill be struck out and the following substituted:

"13. Governing the use of terms, titles, initials, designations and descriptions by members of the association and firms practising as certified general accountants, and by individuals for the purposes of paragraph 2 of subsection 26(2)."

Again, this is a housekeeping amendment. It ensures consistency with earlier motions and bylaws etc.

**Mr. Peter Kormos:** The only addition here is the inclusion of paragraph 2, instead of just addressing the broader 26(2). Do you understand what I'm saying?

**Mr. David Zimmer:** Yes. It reflects the changes about the use of permission by the bylaw in government motion number 1.

**Mr. Peter Kormos:** So it relates to your amendment?

**Mr. David Zimmer:** Yes.

**Mr. Peter Kormos:** Okay.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mr. Peter Kormos:** You were reasonably optimistic about that amendment getting passed.

**Mr. David Zimmer:** I was, given the structure and makeup of the committee.

**Mr. Peter Kormos:** All fair-minded people.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. We're on the government motion on page 12. All those in favour of the motion? Opposed? That carries.

Shall section 65, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments for sections 66 to 71. Any discussion on that? No? Shall those sections, from 66 to 71, carry? All in favour? Opposed? Carried.

That concludes schedule A. I'll put the question: Shall schedule A, as amended, carry? All those in favour? Opposed? Carried.

We move to schedule B now. On page 13 of our package, there's a government motion regarding schedule B, section 1.

**Mr. David Zimmer:** I move that the English version of the definition of "board" in section 1 of schedule B to the bill be amended by striking out "board of governors" and substituting "board of directors."

It's a housekeeping, drafting thing.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mr. Peter Kormos:** Chair, if I may?

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** I presume that the CMAs have a board of directors rather than a board of governors.

**Mr. David Zimmer:** Yes, the background—it's a government motion. It's a request by CMA Ontario regarding the name of the governing body.

**Mr. Peter Kormos:** Yes, because they're called directors rather than governors. It just amazes me. Isn't it interesting, Chair, that this bill has been floating around in draft versions to all these groups for so long and it gets printed and it passes first reading—of course it passes first reading—and that wasn't caught earlier? Isn't that bizarre? Do you find that peculiar?

**The Chair (Mr. Lorenzo Berardinetti):** I have to be neutral. I'm the Chair.

Shall the amendment carry? All those in favour? Opposed? Carried.

Shall section 1, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments from sections 2 to 7, so I'll put the question. Shall sections 2 to 7 carry? Carried.

We'll move on to section 8. On page 14 of our package, there's a government amendment.

**Mr. David Zimmer:** I move that the English version of subsection 8(1) of schedule B to the bill be amended by striking out "board of governors" and substituting "board of directors."

It's the same as my previous comment.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? None? Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 8, as amended, carry?

Mr. Kormos?



**Mr. Peter Kormos:** I have a question, and I don't know the answer. In the French translation, "conseil d'administration"—is there a direct translation from "directors" to French or "governors" to French? This has nothing to do with the bill; it's just—

*Interjection.*

**Mr. Peter Kormos:** Yes, please.

**Ms. Tamara Kuzyk:** I can speak to that. The French team informs me that in the French, there is no distinction made between directors and governors in this context, so we didn't have to change anything there.

**Mr. Peter Kormos:** That's interesting.

**Mr. David Zimmer:** A very good eye for detail. Mr. Kormos, I'm impressed.

**The Chair (Mr. Lorenzo Berardinetti):** We all learned something today.

**Mr. David Zimmer:** You're watching this like a hawk.

**Mr. Peter Kormos:** Yes.

**The Chair (Mr. Lorenzo Berardinetti):** We're on page 14. Shall the amendment carry? All those in favour?

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry; we already did the vote on the motion.

Shall section 8, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments for sections 9 to 25. Shall those sections, 9 to 25, carry? All those in favour? Opposed? Carried.

That brings us to section 26 of schedule B. There's a PC motion on page 15. Mr. Chudleigh.

**Mr. Ted Chudleigh:** I move that clause 26(1)(a) of schedule B to the bill be struck out.

It's for the same reasons that we had when we had this clause in schedule A. It better corresponds to section 2 of the act and protects the rights of practising accountants who are not members of the corporation. The motion continues to prohibit an individual from implying that they are, from practising or from holding themselves out to be certified management accountants, but it recognizes the diversity within Ontario's accounting professions and better corresponds to the government's Open Ontario initiative, which is Open Ontario sometimes but not today.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Kormos?

**Mr. Peter Kormos:** Same comments as with schedule A.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? We'll vote, then, on—

**Mr. Peter Kormos:** Recorded vote.

**Ayes**

Chudleigh, Kormos.

**Nays**

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We'll move on to page 16. Mr. Chudleigh?

**Mr. Ted Chudleigh:** I move that clause 26(1)(a) of schedule B to the bill be amended by striking out "alone or in combination with other words or abbreviations" at the end.

Again, this is the same reason as in schedule A: individuals who are prohibited from using the specified designation or initials. However, it recognizes the reality that with "in combination with other words or abbreviations," this subsection is overly broad and could create an undesirable situation in the future.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None?

**Mr. Ted Chudleigh:** A recorded vote, please.

**Ayes**

Chudleigh, Kormos.

**Nays**

Johnson, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

**Mr. Peter Kormos:** Chair, if I may, I draw your attention to the clock.

**The Chair (Mr. Lorenzo Berardinetti):** It's 20 after 10. Would you like—

**Mr. Peter Kormos:** I'm just suggesting that—

**The Chair (Mr. Lorenzo Berardinetti):** There are 10 minutes before question period.

**Mr. Peter Kormos:** It's 10 minutes before question period. Some of us are at an age where we have to do certain things before we get into the House for question period.

**The Chair (Mr. Lorenzo Berardinetti):** Yes, okay. We will recess until after—

**Mr. Lou Rinaldi:** Two o'clock.

**The Chair (Mr. Lorenzo Berardinetti):** Until 2 o'clock this afternoon.

**Mr. Peter Kormos:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you.

*The committee recessed from 1020 to 1406.*

**The Chair (Mr. Lorenzo Berardinetti):** I call back to order the meeting of the justice policy committee. Just a note to all the lawyers around the table here that you have to file your annual report by the end of today or you get suspended, and your fees are due as well. There are too many lawyers around here.

**Mr. Peter Kormos:** Chair, mine has been filed. Does that suggest that you're still working on yours?

**The Chair (Mr. Lorenzo Berardinetti):** They're being completed quickly so I can get mine filed before they close at 4:30.

**Mr. Peter Kormos:** But you get published in the ORs. What the heck?



**The Chair (Mr. Lorenzo Berardinetti):** I know, but it's not the kind of publicity that one would like to get. And they've raised the price again this year, too.

We're back dealing with the same item: Bill 158. I think we were on the government motion on page 17, which deals with clause 26(1)(a). Mr. Zimmer.

**Mr. David Zimmer:** I move that clause 26(1)(a) of schedule B to the bill be amended by adding "F.C.M.A.", "FCMA" before "R.I.A.".

**Mr. Peter Kormos:** If Mr. Zimmer could help us with this: What do these particular abbreviations refer to?

**Mr. David Zimmer:** The amendment makes the CMA act consistent with the other two acts. That's an editorial. I'm just going to ask Mr. Gregory to help me with the postnominals.

**The Chair (Mr. Lorenzo Berardinetti):** You can even have a seat up here, if you don't mind.

**Mr. David Zimmer:** What does CF—fellow of the college—you tell me.

**Mr. John Gregory:** My name is John Gregory. I'm general counsel of the policy division in the Ministry of the Attorney General.

The initials added by the motion basically stand for fellow of Certified Management Accountants Canada, but it's a designation given by the board of governors of each of the provincial organizations, like CMA Ontario, on nomination and then qualification and so on and so forth. Each of the accounting bodies has a senior distinguished professional status called fellow. So the CA Act and the CGA act in this bill both include the F version, like FCGA or FCA, in the protected categories.

It was omitted accidentally in the CMA bill, so it's being put into the CMA bill to make them consistent. That's basically it. And this bill is taking the practice of putting them in with and without periods. Whether that's overkill, who knows?

**Mr. Peter Kormos:** That's fair. That's an explanation. I'm just trying to read that as an acronym. It's very vulgar.

**Mr. David Zimmer:** Thank you for that explanation of the F-word.

**The Chair (Mr. Lorenzo Berardinetti):** No further discussion? All in favour? Opposed? That carries.

Page 18 is a PC motion. Mrs. Elliott.

**Mrs. Christine Elliott:** I understand that, given what's happened previously, this motion should be withdrawn.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have consent on that? Okay. So that motion is withdrawn.

Page 19, government motion.

**Mr. David Zimmer:** I move that subsection 26(2) of schedule B to the bill be struck out and the following substituted:

"Exceptions

"(2) Clauses (1)(a) and (b) do not apply to an individual in any of the following circumstances:

"1. The individual uses a term, title, initials, designation or description when making reference to authentic

professional accounting qualifications obtained by the individual from a jurisdiction other than Ontario in,

"i. a speech or other presentation given at a professional or academic conference or other similar forum,

"ii. an application for employment or a private communication respecting the retainer of the individual's services, if the reference is made to indicate the individual's educational background and the individual expressly indicates that he or she is not a member of the corporation and is not governed by the corporation, or

"iii. a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the individual meets the requirements for the work to which the request for proposals relates.

"2. The individual uses a term, title, initials, designation or description as authorized by the bylaws.

"Same

"(2.1) For the purposes of subparagraph 1 ii of subsection (2), stating the name of the jurisdiction from which the qualifications were obtained after the term, title, initials, designation or description is not sufficient to expressly indicate that the individual is not a member of the corporation and is not governed by the corporation."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mr. Peter Kormos:** Yes, please, Chair. This is the same amendment as was proposed with schedule A. It does mitigate a little bit for those folks who are being treated as pariahs. The government is treating those CIMA people as pariahs, aren't they, Chair? It's regrettable.

**The Chair (Mr. Lorenzo Berardinetti):** As Chair, I cannot express my opinion.

**Mr. Peter Kormos:** I'm just reading your body language.

I think it just creates more confusion because the government is saying that these postnominals are okay sometimes and they're not confusing when they're used in this context, but somehow they are confusing when they're used in another context. So you can't suck and blow, you can't have it both ways, but you're doing your best.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Elliott?

**Mrs. Christine Elliott:** This does make a small concession but certainly doesn't go nearly as far as we believe it needs to go in order to address the significant concerns that we've heard before this committee.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote, then. All those in favour of the motion? Opposed? Carried.

Page 20 is a PC motion.

**Mrs. Christine Elliott:** I move that clause 26(3)(a) of schedule B to the bill be struck out.

I believe the reasons for this, as with the previous schedule, were stated by my colleague Mr. Chudleigh earlier today.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos?

**Mr. Peter Kormos:** New Democrats support that.



**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? We'll take the vote.

**Mr. Peter Kormos:** Recorded vote.

#### Ayes

Elliott, Kormos.

#### Nays

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We move to page 21. It's another PC motion. Ms. Elliott?

**Mrs. Christine Elliott:** I move that clause 26(3)(a) of schedule B to the bill be amended by striking out "alone or in combination with other words or abbreviations" at the end.

Again, the reasons were stated previously with respect to the previous schedule by Mr. Chudleigh.

**The Chair (Mr. Lorenzo Berardinetti):** Any comments? None? We'll take a vote.

**Mr. Peter Kormos:** Recorded vote.

**The Chair (Mr. Lorenzo Berardinetti):** A recorded vote has been asked for.

#### Ayes

Elliott, Kormos.

#### Nays

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We'll go to page 22. It's a government motion. Mr. Zimmer?

**Mr. David Zimmer:** I move that clause 26(3)(a) of schedule B to the bill be amended by adding "F.C.M.A.", "FCMA" before "R.I.A."

**The Chair (Mr. Lorenzo Berardinetti):** Any comments or questions? None? We'll take a vote. All those in favour of the motion? Opposed? It's carried.

Okay, we'll go to page 23. It's a PC motion. To Ms. Elliott.

**Mrs. Christine Elliott:** I move that section 26 of schedule B to the bill be amended by adding the following subsection:

"Exception re foreign designations

"(4) Clauses (1)(a) and (b) and (3)(a) and (b) do not apply to the use of a designation, initials, term, title or description when making reference to an authentic accounting accreditation obtained from a jurisdiction other than Ontario, if the reference is immediately followed by a reference to the name of the jurisdiction."

Again, this was previously submitted with respect to the previous schedule—same reasons.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Kormos?

**Mr. Peter Kormos:** This is the solution amendment. This addresses any concerns that the government might have had about there being confusion, although that argument is pretty weak, if not nonexistent. Yet it accommodates it as fair: fairness to those people who have legitimate accreditation from places—God forbid—other than Canada.

This whole bill expresses fear and loathing toward people who are professionals who derive their professional status from places outside of Canada, as if somehow Canada was the only place where you could do this. I just beg to differ. There are any number of places in the world that have, in terms of accounting, training and traditions that precede the Canadian-American history.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None?

**Mr. Peter Kormos:** Recorded vote.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take the vote. A recorded vote has been asked for.

#### Ayes

Elliott, Kormos.

#### Nays

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We'll go to page 24. It's a PC motion. Ms. Elliott?

**Mrs. Christine Elliott:** I move that section 26 of schedule B to the bill be amended by adding the following subsection:

"Exception, no advertising

"(4) Clauses (1)(a) and (b) and (3)(a) and (b) do not apply to the use of a designation, initials, term, title or description in a communication that does not involve advertising accounting services to the public."

This is an alternative provision to the one that was just voted down, for the same reasons.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Kormos.

**Mr. Peter Kormos:** This is the grovelling amendment: "Please, please, in private, between consenting adults, in plain brown envelopes, may we maintain some modicum of dignity and be allowed to use our professional designations from places outside of Canada? You've beaten us up. You've smacked us around. You've mocked us. You've denigrated us publicly, so please, in the instance of behind closed doors, between consenting adults, in a plain brown envelope, will you let us use these designations?"

Surely the government can give these folks that much, even though it's almost embarrassing to have to move



this. Not “almost;” it is embarrassing. It’s embarrassing for me to have to speak to it.

1420

**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? None? So we’ll take a vote.

**Mr. Peter Kormos:** Recorded vote.

#### Ayes

Elliott, Kormos.

#### Nays

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We’ll go to page 25. This is a government motion. Mr. Zimmer.

**Mr. David Zimmer:** I move that section 26 of schedule B to the bill be amended by adding the following subsections:

“Exception

“(4) Clauses (3)(a) and (b) do not apply if a corporation uses a term, title, initials, designation or description when making reference to authentic professional accounting qualifications obtained by the corporation from a jurisdiction other than Ontario in a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the corporation meets the requirements for the work to which the request for proposals relates.

“Non-residents, etc.

“(5) Nothing in this section affects or interferes with the right of a person to use any term, title, initials, designation or description identifying himself or herself as an accountant, if the person does not reside, have an office or offer or provide accounting services in Ontario.”

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Mr. Kormos.

**Mr. Peter Kormos:** This is the pharisaic amendment. This the one where the government demonstrates that it doesn’t know what it’s talking about. These designations that are supposed to be oh, so confusing can be used when you’re responding to an RFP, when you’re trying to justify—look at the interesting language. You can use these non-Canadian designations to demonstrate that the corporation meets the requirements for the work to which the request for proposals state it relates with.

The government is acknowledging that these designations have value and that they say something, that they say something positive and that they are used justifiably. They’re being used to demonstrate that the corporation meets the requirements of the work to which the request for proposals relates. Holy moly, Chair. This seems to contradict everything the government is saying.

Now, if the government is suggesting—I said this this morning, but it’s good for people who are only going to read half the Hansard of this committee. Well, yeah, the

a.m./p.m. This government isn’t protecting people from any dough-head who wants to set up a shingle that says “accountant.” So if Main Street Jane or Joe is saying to each other, “Honey, let’s go and get an accountant this afternoon,” nothing in this legislation prevents them from being duped by a charlatan who has “accountant” written out there. Similarly, if Jane or Joe Main Street were asked what the difference is between a CA, a CGA or a CMA, they would most likely—unless they spent a fortune putting one of their kids through university to achieve that qualification—say, “I don’t know. I have no idea.”

Do people have any idea what those initials are after their insurance broker’s name? Do any people have any idea what the initials are after a real estate broker’s name? None whatsoever. Doctors who belong to various colleges and are fellows and so on have initials that go well beyond M.D. For the life of me, I don’t know what they mean. One just assumes that the more initials you’ve got, the more qualified you are. Of course, we know that’s all bull feathers.

Here, the government’s saying that people are going to be confused, yet the people who are using CMAs, CGAs and CAs or any number of people with a similar foreign—non-Canadian; I regret using the word “foreign”—non-Canadian designation, are going to be people who know what they mean and have value in them. You’re letting a CGA distinguish herself from a CMA. Why not let the UK-based training program allow a person who has UK-based training, CIMA—is that the abbreviation?—to indicate that that has been their training, so that people who are looking for CIMA training—oh, people don’t know what CIMA is? People don’t know what the hell CGA training is, or CA or CMA.

Of course, the non-resident part is the comic relief. Non-residents: Nothing in this section interferes with the rights of non-residents to use this. This is the point I’m going to talk about: Somebody’s going to run across the bridge at Hull, Quebec into Ontario, flash his CIMA designation then run like hell back to Quebec. Come on. Why can non-residents do it? Why can anybody do it if it’s confusing and promotes charlatans exploiting vulnerable consumers? I’ve got an idea: Maybe we shouldn’t let CAs, CGAs and CMAs use the abbreviations. Maybe they should have to spell it out in full.

Let me give you this illustration. I was in conversation with a bunch of lawyers, and they’re talking about DROs in the court context. Now, the only thing I know that is a DRO, because of our culture, is a deputy returning officer. Well, in the courts north of Toronto, apparently they use dispute resolution officers. But you understand the problem. The very same acronym, depending upon your cultural background, means two very different things in the context you are working in.

I’m not familiar with this relatively new phenomenon, these dispute resolution officers. It’s not mandatory mediation, but an alternative. But they’re both DROs, and here I am, assuming it’s a deputy returning officer. I think, “What the hell are the lawyers doing talking about



deputy returning officers in matrimonial disputes?" No, it's dispute resolution officers.

Maybe, if you really want to avoid confusion, you wouldn't let people use initials at all, because that's confusing. You really should just have to spell it out in full. Lawyers have to do "Barrister and Solicitor," and if they want to, "Notary Public." They can't put "Dave Zimmer, BS" or "B and S; NP," right? People would be confused. What would that mean to people? Nothing. It would mean something to us, assuming we're talking in a lawyer context.

What more can I say? My colleagues on the other side say, "Don't say any more." I'm sure they wish I wouldn't.

**Mr. Lou Rinaldi:** Well, no, you're asking.

**Mr. Peter Kormos:** I know I asked the question, and I got an answer. As a matter of fact, do you know what, Mr. Rinaldi? I'm going to take your counsel on this, because this is going to come up one more time. I suppose I'll be able to address it. Let's get moving on this, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** I never comment on anything as Chair, but one thing as a lawyer: I still don't know why we're called to the bar, because that confuses me with bars.

**Mr. Peter Kormos:** You don't know the lawyers I know.

*Laughter.*

**The Chair (Mr. Lorenzo Berardinetti):** Anyway, any further discussion on the government motion?

All those in favour? Opposed? That carries.

We'll go to page 26, a PC motion.

**Mrs. Christine Elliott:** I withdraw that motion.

**The Chair (Mr. Lorenzo Berardinetti):** Is that fine with everyone? We'll withdraw that one.

That's the end of section 26, so I'll put the question. Shall section 26, as amended, carry? All those in favour? Opposed? Carried.

Sections 27 to 63: There are no amendments there.

Mr. Kormos?

**Mr. Peter Kormos:** You're called to the bar because the bar—

**The Chair (Mr. Lorenzo Berardinetti):** I shouldn't have brought it up. Sorry. I owe everybody a lunch now.

**Mr. Peter Kormos:** Just like in a barroom, the bar is the post or the bar that's laid across the entryway—that's the court of Parliament. Similarly, the various inns in England, the Inner Temple and so on, had bars to which you were called. As I understand, the symbolic equivalent in North America is that wood panelling beyond which only lawyers can attend, right? You get to sit up there where defence counsel and prosecutors or plaintiff's counsel sit. You're inside the bar instead of outside the bar. Is that helpful?

**The Chair (Mr. Lorenzo Berardinetti):** That's helpful. I'll probably explain that to my parents. They still don't know what that means, but I do understand your explanation. It's a good one.

Sections 27 to 63: There are no amendments. Shall sections 27 to 63 carry? Those in favour? Opposed? Carried.

1430

That takes us to page 27, a government motion regarding a new section. Mr. Zimmer.

**Mr. David Zimmer:** I move that schedule B to the bill be amended by adding the following section:

"Disclosure to public authority

"63.1(1) The corporation may apply to the Superior Court of Justice for an order authorizing the disclosure to a public authority of any information that a person to whom subsection 63(1) applies would otherwise be prohibited from disclosing under that subsection.

"Restrictions

"(2) The court shall not make an order under this section if the information sought to be disclosed came to the knowledge of the corporation as a result of,

"(a) the making of an oral or written statement by a person in the course of an investigation, inspection or proceeding that may tend to criminate the person or establish the person's liability to civil proceedings, unless the statement was made at a hearing held under this act;

"(b) the making of an oral or written statement disclosing matters that the court determines to be subject to solicitor-client privilege; or

"(c) the examination of a document that the court determines to be subject to solicitor-client privilege.

"Documents and other things

"(3) An order under this section that authorizes the disclosure of information may also authorize the delivery of documents or other things that are in the corporation's possession and that relate to the information."

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** This is identical to section 61 in schedule A. Again, I don't want anything tricky here, but it wasn't included in schedule B in the first instance. Was there a reason why, or was it an oversight? This provision is in schedule A.

**Mr. David Zimmer:** Mr. Gregory? I defer to Mr. Gregory for the technical explanation.

**Mr. John Gregory:** The question was, why this section?

**Mr. Peter Kormos:** Yes; it exists in schedule A.

**Mr. John Gregory:** It's in schedule A and not in B and C mainly because when we were developing the bill, the certified general accountants said, "We'd like something." It's basically the same as a provision of the Law Society Act, section 41 or 44 of the Law Society Act. In any event, it's very much to the same effect. The CGAs said, "We'd sort of like that." The others said, "We don't really care one way or the other." But when the bill became public, the law society came along and said, "Well, there's a question of protecting the privileged information and the incrimination. We'd sort of like that in all of them." The others said, "Fine, if there's a good reason to put it in." So the motion here and the subsequent motion just add exactly the same provision to both of the other acts.

**Mr. Peter Kormos:** Thank you, sir. That's more than fair.



**The Chair (Mr. Lorenzo Berardinetti):** Any more discussion or questions?

We have the motion in front of us, and we'll put it to a vote. All those in favour of the motion? All opposed? Okay, that carries.

That's a new section, section 63.1, so I don't need to ask for a vote on that actual section. All right.

Sections 64 and 65 have no amendments to them. Shall they carry? Okay, they're carried.

Section 66, on page 28: Mr. Zimmer.

**Mr. David Zimmer:** I move that section 66 of schedule B to the bill be amended by adding "of the corporation" after "any power or duty."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? None?

All those in favour? Opposed? That carries.

Shall section 66, as amended, carry? All those in favour? Opposed? Carried.

We move then to the next item, which is on page 29. It's to do with section 67, and it's a government motion. Mr. Zimmer.

**Mr. David Zimmer:** I move that paragraph 3 of subsection 67(2) of schedule B to the bill be struck out and the following substituted:

"3. Governing the use of terms, titles, initials, designations and descriptions by members of the corporation and firms practising as certified management accountants, and by individuals for the purposes of paragraph 2 of subsection 26(2)."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Mr. Kormos.

**Mr. Peter Kormos:** This is an interesting one because it delegates—if the statute has specific provisions about the descriptions, titles, initials that can be used, and then this authorizes the respective corporation to pass its own bylaws, which could be, I presume, no less or no narrower than what is contained in the statute, but certainly could be broader. I don't know if I phrased that accurately or not. In other words, they could add additional initials that one could not use. I just find that a peculiar thing because, on the one hand, the government is saying that it's going to define it by statute in its respective section 26, and now they're saying, "Oh, by the way, we're also going to give each of these three bodies the power to effectively do whatever it wants without having to meet any test." There's no test here. I just find it peculiar and interesting.

**Mr. David Zimmer:** This motion reflects the changes made in government motion number 8 earlier. It's a consistency issue. If you'd like a more technical explanation, I can ask Mr. Gregory.

**Mr. Peter Kormos:** But you've drawn my attention to, basically, paragraph 3 of that section 67(1), that being, "The board may make bylaws...."

**Mr. David Zimmer:** Would you like to hear from Mr. Gregory?

**Mr. Peter Kormos:** Yes, please.

**Mr. John Gregory:** The purpose of the motion, of course, is to amend the existing paragraph back to the new paragraph 2 of 26(2). That provision, though, in the

bill says that clauses (1)(a) and (b), which are the lead prohibitions on use of the designation, do not apply to an individual who uses a designation etc. as authorized or permitted by the bylaws to be used. In other words, it allows more use of a designation rather than less use of a designation. It says that the prohibitions do not apply to an individual who uses a designation authorized or permitted by the bylaws. This bylaw power in section 67(2) is a power to make bylaws governing the uses for the purposes of paragraph 2. In other words, they can say, for example, you have an honorary member and you want to say, "Honorary member," which isn't permitted to use the designation in the statute itself, "Honorary member, you can use CMA." That's what they're up to.

**Mr. Peter Kormos:** I understand. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Any other questions or comments? We have the government motion in front of us. Let's put it to a vote. All those in favour? Opposed? That carries.

Shall section 67, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments from sections 68 to 77, so I'll put the question: Shall sections 68 to 77 carry? All those in favour? Opposed? Carried.

Now we're on to schedule B. I'll put the question: Shall schedule B, as amended, carry? All those in favour? Opposed? That carries.

We'll move to schedule C. There are no amendments from sections 1 to 26. Shall those sections, 1 to 26 in schedule C, carry? All those in favour? Opposed? Carries.

We'll go to section 27. That's on page 30 of our package. The first motion is a PC motion. Ms. Elliott.

**Ms. Christine Elliott:** I move that clause 27(1)(a) of schedule C to the bill be struck out.

The arguments have all been made with respect to schedule A. The same applies to schedule C, as it did with schedule B—the same arguments.

1440

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None?

**Mr. Peter Kormos:** Recorded vote.

**Ayes**

Elliott, Kormos.

**Nays**

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

We'll go to the next page, page 31. It's also a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 27(1)(a) of schedule C to the bill be amended by striking out "alone or in combination with other words or abbreviations" at the end.



This is the alternative motion to the previous motion, which was voted down and is being presented for the same reasons as the amendments for schedules A and B.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? I'll put it to a vote, then. All those in favour? Opposed? That does not carry.

We'll go to page 32. It's a government motion. Mr. Zimmer.

**Mr. David Zimmer:** I move that section 27 of schedule C to the bill be amended by adding the following subsections:

"Exceptions

"(1.1) Clauses (1)(a) and (b) do not apply if an individual uses a term, title, initials, designation or description when making reference to authentic professional accounting qualifications obtained by the individual from a jurisdiction other than Ontario in,

"(a) a speech or other presentation given at a professional or academic conference or other similar forum;

"(b) an application for employment or a private communication respecting the retainer of the individual's services, if the reference is made to indicate the individual's educational background and the individual expressly indicates that he or she is not a member of the institute and is not governed by the institute; or

"(c) a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the individual meets the requirements for the work to which the request for proposals relates.

"Same

"(1.2) For the purposes of clause (1.1)(b), stating the name of the jurisdiction from which the qualifications were obtained after the term, title, initials, designation or description is not sufficient to expressly indicate that the individual is not a member of the institute and is not governed by the institute."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? None, so we'll put it to a vote. All those in favour of the motion? Opposed? That carries.

We'll go to page 33 in your package. It's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 27(2)(a) of schedule C to the bill be struck out.

Again, for the reasons previously stated with respect to schedule A.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you.

**Mr. Peter Kormos:** Recorded vote.

#### Ayes

Elliott, Kormos.

#### Nays

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

**The Chair (Mr. Lorenzo Berardinetti):** That does not carry.

Page 34 is a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 27(2)(a) of schedule C to the bill be amended by striking out "alone or in combination with other words or abbreviations" at the end.

Once again, for the reasons previously stated on schedule A.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you.

**Mr. Peter Kormos:** New Democrats agree.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? We'll put it to a vote. All those in favour? Opposed? That does not carry.

The next motion, on page 35, is a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that section 27 of schedule C to the bill be amended by adding the following subsection:

"Exception re foreign designations

"(3) Clauses (1)(a) and (b) and (2)(a) and (b) do not apply to the use of a designation, initials, term, title or description when making reference to an authentic accounting accreditation obtained from a jurisdiction other than Ontario, if the reference is immediately followed by a reference to the name of the jurisdiction."

For the same reasons as previously stated.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mr. Peter Kormos:** New Democrats agree.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put it to a vote. All those in favour? Opposed? It does not carry.

We'll go to page 36, a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that section 27 of schedule C to the bill be amended by adding the following subsection:

"Exception, no advertising

"(3) Clauses (1)(a) and (b) and (2)(a) and (b) do not apply to the use of a designation, initials, term, title or description in a communication that does not involve advertising accounting services to the public."

For the reasons previously stated.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? So I'll put it to a vote. All those in favour of the motion? Opposed? That does not carry.

We'll go to page 37. This is a government motion. Mr. Zimmer.

**Mr. David Zimmer:** I move that section 27 of schedule C to the bill be amended by adding the following subsections:

"Exception

"(3) Clauses (2)(a) and (b) do not apply if a corporation uses a term, title, initials, designation or description when making reference to authentic professional accounting qualifications obtained by the corporation from a jurisdiction other than Ontario in a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the corporation meets the requirements for the work to which the request for proposals relates.

"Non-residents, etc.



“(4) Nothing in this section affects or interferes with the right of a person to use any term, title, initials, designation or description identifying himself or herself as an accountant, if the person does not reside, have an office or offer or provide accounting services in Ontario.”

I just want to take this opportunity to put something on the record that came up earlier. The bill does not prohibit any accounting organization from using its name when communicating with its own membership.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Peter Kormos:** The solution may be the Marilyn Churley solution.

**Mr. David Zimmer:** Sorry, I didn't hear that.

**Mr. Peter Kormos:** The solution may be the Marilyn Churley solution. You'll recall that during that period of time when the NDP didn't have party status, we were deemed individuals. I notarized Marilyn Churley's court papers applying for a change of name to Marilyn Churley NDP, so that when her name appeared on the television, it had to—because there's a simplified change-of-name procedure in this province now, there's going to be just a glut of accountants changing their name to Juan Valdez CMA. It's opening the floodgates, as they say. It's an incredible burden for our overburdened courts. It's just a suggestion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll take a vote on the motion, then. All those in favour of the motion? Opposed? That carries.

We'll go to page 38.

**Mr. David Zimmer:** I'm curious, Peter, on that thing with Marilyn Churley. If she were to change her name to NDP, would that be the letters or would you spell out NDP phonetically, and if so, how?

**Mr. Peter Kormos:** No, no, just letters: NDP. We didn't test the court's patience with it.

**Mr. David Zimmer:** I thought it might be en dee pee.

**Mr. Peter Kormos:** Yes, en dee pee. There you go. For a whole lot of people, that would be useful: en dee pee.

You've caused me to think. Your comment about how nothing in this act prohibits an organization from dealing with its own members using the CIMA—it just shows how silly this is. This is turning into—you're creating these little—again, this is the plain brown envelope syndrome: as long as you do it in private and sotto voce, as long as you don't tell anybody you did it. This is the “don't ask, don't tell” of the McGuinty government. Very good. Lovely.

1450

**The Chair (Mr. Lorenzo Berardinetti):** That was very good.

Moving on to the next amendment, on page 38, a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I withdraw this amendment, Mr. Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, that's withdrawn. I'll put the question—I don't think there were any amendments. No, there was one that carried. Shall

section 27, as amended, carry? All those in favour? Opposed? It carries.

There are no amendments to sections 28 to 58, so I'll put the question. Shall sections 28 to 58 carry? All those in favour? Opposed? That carries.

That brings us to—one moment—page 40, a government motion—

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry. We're on page 39. My apologies.

On page 39, there is a government motion. Mr. Zimmer.

**Mr. David Zimmer:** I move that schedule C to the bill be amended by adding the following section:

“Disclosure to public authority

“58.1(1) The institute may apply to the Superior Court of Justice for an order authorizing the disclosure to a public authority of any information that a person to whom subsection 58(1) applies would otherwise be prohibited from disclosing under that subsection.”

*Interjections.*

**The Chair (Mr. Lorenzo Berardinetti):** I'm having trouble hearing the speaker. Mr. Zimmer?

**Mr. David Zimmer:** “Restrictions

“(2) The court shall not make an order under this section if the information sought to be disclosed came to the knowledge of the institute as a result of,

“(a) the making of an oral or written statement by a person in the course of an investigation, inspection or proceeding that may tend to criminate the person or establish the person's liability to civil proceedings, unless the statement was made at a hearing held under this act;

“(b) the making of an oral or written statement disclosing matters that the court determines to be subject to solicitor-client privilege; or

“(c) the examination of a document that the court determines to be subject to solicitor-client privilege.

“Documents and other things

“(3) An order under this section that authorizes the disclosure of information may also authorize the delivery of documents or other things that are in the institute's possession and that relate to the information.”

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? None? We'll put it to a vote. All those in favour? Opposed? That carries.

There are no amendments to sections 59 and 60, so I'll put the question. Shall sections 59 and 60 carry? All those in favour? Opposed? Carried.

Under section 61, on page 40, there is a government motion. Mr. Zimmer.

**Mr. David Zimmer:** I move that section 61 of schedule C to the bill be amended by adding “of the institute” after “any power or duty.”

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? We'll go to a vote. All those in favour? Opposed? That carries.

Shall section 61, as amended, carry? All those in favour? Opposed? That carries.



There are no amendments to sections 62 to 68, so I'll put the question. Shall sections 62 to 68 carry? All those in favour? Opposed? That carries.

Schedule C: Shall schedule C, as amended, carry? All those in favour? Opposed? Carried.

Now let's go back to sections 1 to 3, which were held down. I'm going to put the questions together—I don't know if I have to ask them separately or together.

Shall sections 1, 2 and 3 of the bill carry? All those in favour? Opposed? That carries.

Then we go to the title. Shall the title of the bill carry? All those in favour? Opposed? Carried.

**Mr. Peter Kormos:** Now, Chair, just one minute. I'm counting upon you to call for debate on your next question that you put.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. So you're saying this question here coming up?

**Mr. Peter Kormos:** Well, I know what you're leading up to, so let's have this discussion, because you're going to ask whether the bill should be reported back to the House. Or you wanted to do the title first?

**The Chair (Mr. Lorenzo Berardinetti):** Shall Bill 158, as amended, carry? That was my next question. All in favour? Opposed? That carries.

The next question is this one; we won't vote on it yet. Shall I report the bill, as amended, to the House?

**Mr. Peter Kormos:** Now I've got some comments.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Mr. Kormos.

**Mr. Peter Kormos:** First, I'm going to vote against that, because it's our view that the committee hasn't done its job. The committee has been unresponsive to the very cogent arguments made by any number of persons and groups appearing before the committee.

The committee, if this bill is referred to the House, would be delinquent in its duties to address those submissions and the legitimate concerns of everybody from the British consul—I don't care if we were a former colony; she's our Queen, too. The British consul said some very, very important things. Diplomats like him don't use language carelessly; they use language very, very carefully. He was very cautious and tempered in his language, but also very, very specific. He talked about the prospect of inviting, at least in my view, without saying so, repercussions by way of reciprocity. I think that should be a very troubling thing.

I'm also troubled by the fact that the bill in its present form ignores the reality of thousands of foreign-trained professionals, very competent and qualified by virtue of their association or membership in any number of organizations—the parallels of chartered accountants and CGAs and CMAs in their own countries or respective jurisdictions. I'm troubled that they're not being recognized in the same way that CGAs, CMAs and CAs are, because this isn't about regulating accounting. That's a given; we know that. It's about what initials people are being allowed to use after their name. Without any law, people could put any initials they wanted—fair enough.

You could go A to Z and just run through the alphabet, however bizarre that is.

The problem is that the government hasn't created any tool or mechanism whereby the fraudulent people can be weeded out, whereby the grossly incompetent people can be weeded out, whereby the charlatans can be weeded out. The government doesn't pretend that that's the purpose of this bill. That's not a criticism; it's an observation.

It's not permissive, because you don't need legislation to say that you can put letters after your name. You can put any letters you want after your name, no matter how much they constitute gibberish or just a foolish collection of letters. It's very specific because it tells certain people that they can't put a legitimate series of letters after their name that reflect membership or approval or accreditation by a legitimate, recognized body. In this case, we're talking about CIMA, and several others. CIMA's the one that's dominant, because it's international, UK-based, and obviously CIMA extends to all of those former British colonies in Asia, amongst other places. We've got a whole lot of Canadians who have their roots in those places, a whole lot of Canadians who are, in my view, entitled to bring to Canada—not just entitled; we want them to bring to Canada not just themselves and their families and not just their passion for Canada; we want them to bring to Canada their expertise, training and skills.

1500

Quite frankly, whether it's in the field of medicine or engineering, we're better off for having these people from around the world because they bring elements of their background in medicine to become part of the Canadian medical reality. It only makes Canadian medical practice better.

I don't want to be trite, but a modest example is home-building alone. You don't have to go beyond Europe to see totally different techniques of building houses, even upscale houses: totally different techniques, totally different building materials and, quite frankly, a whole lot of building materials and building techniques that are far more environmentally friendly than the traditional spruce two by four balloon construction in North America.

So here we are: We've got a whole bunch of Canadians whom we're blessed to have here because they are here with training from diverse places in the world, and we're telling them that they can't identify themselves in an open and clear way as having received that training. I just think it's unfortunate. I think it's regrettable. I think it's sad. I don't know, for the life of me, why the government has somehow found itself rigid in this regard.

The solution, of course, was either to eliminate sections 26 or 27 or, more relevantly, to keep sections 26 and 27, depending upon which schedule you're talking about, and incorporate the amendment that proposed that if you have a designation other than those, you put down CIMA or any of its other similar collection of signatures, identifiers of CIMA members, and then you put "UK," or "CIMA Sri Lanka," or "CIMA India," perhaps. I don't



know of all the places where CIMA people are. This seems to be so easy, so inoffensive and so accommodating, so inclusive rather than exclusive.

I don't know. I'm usually pretty good at understanding the motive, what drives a particular piece of legislation, and I know what drives this one. Fair enough; it was the eagerness of the CGAs, the CAs and the CMAs to have these statutory powers. Fine, but the resistance—because nobody's argued about those. As a matter of fact, was it CAs that were here that said, "That's 95% of the bill?" Right? They said, "This is the real thrust of the bill," and we agreed; that's the real thrust of the bill. They didn't use these words, but they implied that it was unfortunate that the process was hijacked over a concern for the foreign-trained professionals, and not exclusively foreign-trained professionals, because we've got some—the Society of Professional Accountants of Ontario, for instance, which is being denied the similar ability. So there you go.

Look, let's be candid here. We saw the people who appeared here. The people who were pleading with this government to accommodate foreign-trained professionals—and we talk about the panels that sat up here—were people who reflected the cultural and ethnic diversity of Canada in the year 2010. It's far different than it was in 1950. I remember the 1950s well; it's the 1960s and 1970s that I don't recall very well.

*Laughter.*

**Mr. Peter Kormos:** It's just one of those things, Mr. Zimmer. I remember the 1950s well. As a kid in a small industrial Ontario town, I watched the country change. First it was the big influx, the big wave, of Italian immigration around 1956. They moved into our neighbourhood, so I watched that with great excitement. This was a fascinating thing for me. All I knew before that was Slovaks, Hungarians and Poles. I thought that was mainstream Canada because we lived in that little community. I didn't know about Anglo people; I really didn't know there was such a thing as Anglo-Saxon people because they lived on the other side of town. Most of us have—all of us who are within the same range; many are much younger. But we've watched this, and I just find it very, very frustrating that we can't be more inclusive about these people, because nobody's disputed the fact that their credentials are as good, if not better. In fact, the CMA, CGA and perhaps others say, "Oh, we'll let them use these little reciprocity agreements," where we let them into ours if they let us into theirs. So they seem to acknowledge that these credentials are reasonably valid.

Confusion, my foot. Don't believe it. Horsefeathers, I say. Not for a minute. It's a red herring, a diversion. It's a little David Copperfield move, a little sleight of hand. They're trying to remove our attention away from the real interests here. I'm not going to—I'm only suspicious of what their real interests are here.

Again, you heard how disappointed I was in the CGAs, because the CGAs were the underdog for so long and they fought and fought and fought. Government after government—all three governments, governments of all

three political stripes—wouldn't give them access to public accounting because the CAs were a powerful and effective lobby. I remember the day clearly in the House when the government of the day—it was the Conservative government—was basically tricked, because Howard Hampton stood up on the bill calling for unanimous consent for third reading. The government didn't know whether to spit or go blind. Chris Stockwell was the House leader, and he looked like he'd been spun like a top. But they realized the difficulty of saying no, because they were saying, "Oh, we're really committed to this," except I suspect the bill was designed to die after second reading, after going to committee and never being called again. That was the design.

So we have great sympathy for the CGAs. They were being treated unfairly, because they weren't allowed to do public accounting when they were perfectly capable of doing it. CMAs were in the same boat, weren't they? So I just find it strange that the CGAs have been through that experience and seem unable to articulate the same interest in other accountants—accounting professionals, not your street-level small-A accountant. I mean, there are pharmacists and then there are pharmacists. Heck, walk to my apartment at the corner of Yonge and Wellesley and there are a whole lot of pharmaceutical dealers, neither big-box nor independent pharmacists.

Here we have a community that is—we are underdogging them. I thought this was an era when you don't underdog people anymore. I really did. I thought this was an era where we recognize that coming from somewhere else brings value to our country rather than somehow diminishing it. Yet this bill, in my respectful submission to you, diminishes the people we heard from and the people they spoke on behalf of, the people who trained in Sri Lanka or Singapore or the UK or wherever.

As I say, it was remarkable—and I don't want to read too much into this—the complexions of those panels. It was pretty dramatic in terms of those who advocated for exclusion and those who advocated for inclusion. I don't feel comfortable reflecting upon those dramatically contrasting complexions.

The final thing, because we were going to wrap this up—I don't know how the vote's going to go on referral back from committee, although I've got my suspicions—is how important it is, and I've got to tell you this, Chair, for there to be committee hearings like this. This is the only opportunity, as the bill proceeds through its process, to question, for instance, the parliamentary assistant, his staff or the counsel who assisted in the preparation of it, to get some analysis and understanding. That doesn't happen during debates, because although there are questions and comments, two minutes each, you know what they amount to. They don't amount to real questions or comments. So this is a chance to question the parliamentary assistant and to get answers from him, and Mr. Zimmer has been very clear in terms of the responses he has given, and I respect him for that. Counsel have been very valuable, both legislative counsel and counsel for the ministry, in terms of what they've helped us with.



But I'll tell you the problem—and this also creates a reference point for people who want to understand what happened. Recently, I introduced a bill that would extend the term of the Ombudsman to 10 years, no reappointment, to avoid any politicization of reappointment. I wanted to find out why, at the end of the term of Roberta Jamieson, the government of the day changed the term—because it had been 10 years—to five years. That amendment to the Ombudsman Act was buried in an omnibus bill, and the omnibus bill didn't get the sort of treatment, in my view, that it should have, especially in hindsight, because I'm looking for some comments. I wanted to know whether all three parties agreed. I wanted to know whether—because when you're voting on an omnibus bill, you don't know what parts you're voting for. Committee is where that comes out. I wanted to know what explanation was given by the parliamentary assistant of the day for why the term was going to be reduced to five years with a reappointment, and I couldn't find it because it wasn't discussed in the committee work on that bill. Other things dominated the committee—other parts of it.

I hope people don't find what they might perceive as overly questioning of the parliamentary assistant to be inappropriate, because I think it's incredibly important. Ten years down the road, when the CIMA people are looking for another kick at the can with yet another government, they may want to refer to this committee hearing and understand the arguments that were made so that they can deal with them.

I just wanted to relay that to you, and I thank you. I thank all of you for your patience with me.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Kormos. Ms. Elliott.

**Mrs. Christine Elliott:** Just a few brief comments, Chair.

As official opposition, we are also concerned with the final format that this bill has taken, both with respect to the international ramifications, which we heard really clearly expressed by the British consul general, who took the time to come and speak to us, and what it says with respect to how we utilize professionals trained in different jurisdictions. It certainly seems contrary to the government's present policy of Open Ontario, and I am

concerned with, perhaps, reciprocity in other jurisdictions at some point down the line.

But I'm also concerned that there were many deputies who came, including CIMA, who articulated their position really well. Though we saw that there were several iterations of several of the sections that seemed to move closer to where we wanted to get, we never quite got there. I can't help but feel that if we'd had a little bit more time, maybe we would have been able to nudge the government into the right position and to allow these professionals to be able to practise in the way that they should be entitled, in my respectful opinion.

So I do have serious concerns as we go forward, but, unfortunately, we ran out of time here.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much.

I'll put the question forward, then. Shall I report—

**Mr. Peter Kormos:** Recorded vote, please.

**The Chair (Mr. Lorenzo Berardinetti):** A recorded vote has been asked for. Shall I report the bill, as amended, to the House?

#### Ayes

Mangat, Pendergast, Rinaldi, Sousa, Zimmer.

#### Nays

Elliott, Kormos.

**The Chair (Mr. Lorenzo Berardinetti):** So that carries.

We are adjourned—

**Mr. Peter Kormos:** Now, before we adjourn, what's our next bill?

**The Chair (Mr. Lorenzo Berardinetti):** There isn't one.

**Mr. Peter Kormos:** Surely there's some private members' public business on order that's been referred to justice that the committee could deal with?

**The Chair (Mr. Lorenzo Berardinetti):** No, it hasn't been. There's nothing else. We're neglected. So we stand adjourned. Thank you, everybody.

*The committee adjourned at 1513.*













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Ms. Susan Sourial

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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 20 May 2010

# Journal des débats (Hansard)

Jeudi 20 mai 2010

## Standing Committee on Justice Policy

Excellent Care for All Act, 2010

## Comité permanent de la justice

Loi de 2010 sur l'excellence  
des soins pour tous

Chair: Lorenzo Berardinetti  
Clerk: Susan Sourial

Président : Lorenzo Berardinetti  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 20 May 2010

Jeudi 20 mai 2010

*The committee met at 0903 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Vice-Chair (Ms. Leeanna Pendergast):** Good morning. We'll come to order, please. Welcome to public hearings on Bill 46, An Act respecting the care provided by health care organizations. Good morning, everyone, and thank you for being with us here this morning.

Our first item on the agenda is the report of the subcommittee on committee business. I need a mover for the report, please. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Your subcommittee on committee business met on Thursday, May 13, 2010, to consider the method of proceeding on Bill 46, An Act respecting the care provided by health care organizations, and recommends the following:

(1) That the committee hold one day of public hearings at Queen's Park on Thursday, May 20, 2010.

(2) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business one day in the following publications: the Globe and Mail, the Toronto Star, and L'Express.

(3) That the committee clerk post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 46 should contact the committee clerk by 12 noon, Tuesday, May 18, 2010.

(5) That, on Tuesday, May 18, 2010, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(6) That groups/individuals be offered 15 minutes in which to make a presentation.

(7) That, if all groups/individuals can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(8) That, if all groups/individuals cannot be scheduled, the committee clerk, in consultation with the Chair, reduce the presentation times to 10 minutes.

(9) That, if all groups/individuals cannot be scheduled with 10-minute presentations, each of the subcommittee members provide the committee clerk with a prioritized list of names of groups/individuals they would like to hear from, by 4 p.m., Tuesday, May 18, 2010, and that these names must be selected from the original list

distributed by the committee clerk to the subcommittee members.

(10) That the deadline for written submissions be 5 p.m., Tuesday, May 25, 2010.

(11) That the deadline (for administrative purposes) for filing amendments be 12 noon, Thursday, May 27, 2010.

(12) That the committee begin clause-by-clause consideration of Bill 46 on Monday, May 31, 2010 (subject to authorization by the House).

(13) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you. I would like to draw the attention of the committee to number 12, please: "That the committee begin clause-by-clause consideration of Bill 46 on Monday, May 31, 2010 (subject to authorization by the House)." I'm just drawing the committee's attention to the fact that we do not, at this point, have authorization by the House, and if we do not receive that authorization, then we'll meet on Thursday, June 3, as scheduled.

Any discussion?

**Mr. Bas Balkissoon:** I move adoption.

**The Vice-Chair (Ms. Leeanna Pendergast):** All in favour of accepting the subcommittee report? Opposed? Carried.

The second item is a housekeeping item. The College of Chiropractors of Ontario has made a late request to present this afternoon. In keeping with what we've just heard in item 4, that they would have to apply by Tuesday, May 18, we need unanimous consent of the committee to allow the College of Chiropractors to present this afternoon to the committee. Is that acceptable? Unanimous? Thank you very much.

## EXCELLENT CARE FOR ALL ACT, 2010

LOI DE 2010 SUR L'EXCELLENCE  
DES SOINS POUR TOUS

Consideration of Bill 46, An Act respecting the care provided by health care organizations / Projet de loi 46, Loi relative aux soins fournis par les organismes de soins de santé.



## LIFELABS MEDICAL LABORATORY SERVICES

**The Vice-Chair (Ms. Leeanna Pendergast):** Item number 2 on our agenda is to begin public hearings. At this point, we would ask LifeLabs Medical Laboratory Services and Jeff MacDonald, if you're present, to please come forward. Good morning, sir. You have 15 minutes for your presentation. If you don't use up the entire 15 minutes, that time will be shared equally amongst all three parties for questions. When you begin, we would ask that you state your name for Hansard, please.

**Mr. Jeff MacDonald:** I'm Jeff MacDonald, and I'm general manager for LifeLabs Medical Laboratory Services.

Madam Chair, I'd like to thank you and the committee for inviting me here today to present on Bill 46, the Excellent Care for All, Act, 2010. I represent LifeLabs Medical Laboratory Services. We are the largest community laboratory provider in Canada and a vital member of a patient's extended health care team.

By way of background, LifeLabs Medical Laboratory Services provides medical testing to patients under the Ontario health insurance plan to help in the prevention, diagnosis, monitoring and treatment of disease and illness. With a provincial infrastructure of 2,000 health professionals, testing centres and collection centres, we provide access to essential laboratory testing across the province.

We are an important member of the colon cancer check program and a founding partner in the Ontario Laboratory Information System, which is the precursor to a full patient e-health record. Already, we play an important part in assisting those with diabetes better manage their disease and have a current proposal in front of government on how we can provide further infrastructure and service to proactively manage patient compliance in their care plan as well as driving improved health outcomes and, downstream, cost avoidance for the health care system.

We provide all of these services through a capped funding agreement which delivers greater value to the public health care system every year, since annual increases in demand for our services far outweigh any increase in our annual rate of funding.

0910

With regard to Bill 46, the Excellent Care for All Act, 2010, we recognize that the bill is officially and initially focused on the Ontario public hospital sector with which LifeLabs works every day, providing core and reference testing services along with management and administrative services.

While our hospital partnerships provide us a unique perspective, I am here today to provide support for the government's ultimate goal, which is the application of the bill's guiding principles to all aspects of the health care system. As the minister said last Wednesday, "Quality must cut across the entire continuum of care." LifeLabs supports all of the principles that underpin Bill

46, and we offer the following specific comments relating to the section of the bill dealing with the expansion of the Ontario Health Quality Council's mandate.

The first area: Supporting the use of clinical practice guidelines and protocols is crucial to ensuring that quality care is provided and funded appropriately. I'm proud to say that LifeLabs and our industry association, the Ontario Association of Medical Laboratories, are leaders in the development and deployment of laboratory clinical practice guidelines, with over 30 that are in practice in the province today. LifeLabs currently tracks many important quality, service and access indicators, which are reviewed by our quality committees and are routinely utilized to improve our service, as outlined in our quality improvement plan documents. We would support and lead industry-wide performance improvements through standardized key indicators based on best practice. We support the concept of building an integrated health care system that taps into the expertise of community partners and health care professionals, and we have much to offer the Ministry of Health and Long-Term Care in this regard.

We are pleased that Minister Matthews is asking questions related to the appropriate utilization of our medical services and the value received under the insured health care services. LifeLabs brought forward a similar issue in its 2010 pre-budget submission to the Standing Committee on Finance and Economic Affairs. In this submission, we raised the example of inappropriate Vitamin D testing.

LifeLabs' volume of Vitamin D testing has grown by more than 450% over the past two years and increased another 150% by March 31 of this year—all under a capped funding situation. A recent report of the Ontario Health Technology Advisory Committee concluded that vitamin D testing is not warranted for the healthy population. We agree with the findings of this report and support publicly insuring vitamin D testing only in medically necessary situations but not as a screening test for otherwise healthy individuals. We ask that the government work with us to bring conclusion to this issue quickly.

We share the government's objective of ensuring that future investments in health care achieve results and improve patient health. Funding services based on appropriate clinical practice guidelines is key to achieving this goal.

LifeLabs is also advocating solutions and tools which will better ensure that public health insurance dollars are being applied only to clinically appropriate situations that improve health outcomes. As an example of this, we are promoting items such as rules-based electronic ordering with embedded decision support for laboratory testing, test panels and results-based algorithms designed to provide the best clinical information while minimizing unnecessary testing. LifeLabs has the expertise and experience to bring these solutions across the entire laboratory system.

Secondly, funding must reflect quality and value. LifeLabs is a leader in quality improvement in the labora-



tory sector and is committed to continuous quality improvement as a critical goal. Our company meets or exceeds the gold standard of laboratory accreditation, the Ontario Laboratory Accreditation under the Quality Management Program—Laboratory Services. Our reference laboratory was the first to be accredited in Ontario, and every lab in our system has scored higher than the provincial average in this accreditation process. We believe that the government should take these types of items into consideration when funding laboratory services.

Thirdly, funding must flow with the patient. Over the last two years, more than 30 Ontario public hospitals have transferred outpatient laboratory testing into Ontario's community laboratory sector. This is the equivalent of approximately \$17 million in gross OHIP billings. LifeLabs has absorbed hospital outpatient closures in communities throughout Ontario, with some examples being Thunder Bay, Sault Ste. Marie, Hamilton, Niagara, Sarnia, Halton, Stratford, Toronto and many more.

While we agree that the community is the proper place for these patients to receive their medical laboratory testing services, funding for these services has not followed the patients from the hospital sector into the community sector. LifeLabs, along with the other community laboratory service providers, has had to accommodate these higher patient volumes within our capped funding budget.

In summary, Bill 46 is an important and laudable piece of legislation that focuses on patients, on quality and on best practices while delivering value for every health care dollar that the government spends. As an important part of the patient's extended health care team, LifeLabs is supporting the guiding principles behind Bill 46, ensuring that clinical practice guidelines are developed and implemented across the system to ensure that quality care is provided and funded appropriately. Moreover, providing funding based on continuous quality improvement and a patient-centred approach will ensure the patients receive the best care when and where they need it most.

LifeLabs looks forward to working with the government in the coming years and providing the leadership needed to extend and apply these principles more broadly across the system, including in the delivery of medical laboratory services.

I appreciate your time this morning. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. MacDonald. We have just under three minutes for each party for questioning. We'll begin with the official opposition. Ms. Elliott.

**Mrs. Christine Elliott:** Good morning, Mr. MacDonald. Thank you very much for your presentation. I did have a question regarding your capped funding budget. How often does that get reviewed, and is it coming up for review again soon?

**Mr. Jeff MacDonald:** Our capped funding arrangement is an arrangement between the Ministry of Health

and Long-Term Care and the Ontario Association of Medical Laboratories. There is an overall industry cap and then there is a corporate cap for each corporation that provides these services. That agreement is negotiated on, most usually, a three-year basis. We are in the third year of our three-year agreement at this point, which also has an opener in the third year of the agreement, where we would sit down with government to understand whether the forecasted volumes ended up being the true volumes and look at other regulatory changes.

At this point, our volumes have actually more than doubled what we had forecast at the beginning. We're running at a greater than 12%, year over year, volume increase, and this year we'll be receiving a 1.4%, year over year, funding increase. That's on top of an HST issue, which affects our industry by about \$13 million. We cannot, obviously, charge the government the HST, and we have nowhere to pass it on. We also do not receive similar funding credits as hospitals do, where there would be an 87% tax credit on the HST.

**Mrs. Christine Elliott:** So you're already struggling with volumes and now you've got the HST on top of that.

**Mr. Jeff MacDonald:** Correct.

**Mrs. Christine Elliott:** I gather the ministry is aware of your concerns in that respect?

**Mr. Jeff MacDonald:** Absolutely.

**Mrs. Christine Elliott:** Okay. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Good morning, Mr. MacDonald. Thank you for coming. I understand some of the examples you've given regarding bone mineral density testing and vitamin D. What you're telling us is, from where you stand, you have a viewpoint as to the utilization of lab services. Sometimes you see anomalies develop that are maybe not the best use of taxpayers' money and not the best use of your capped budget either. How can you effect change? You don't control the tests that come in; you just do them—I'm assuming; I don't want to put words in your mouth. How would you see a system where you are an integral partner and you see anomalies developing? What would be a good chain so that we learn from your experience and influence change?

**Mr. Jeff MacDonald:** Thank you for the question. It's a key question within our industry. You are right about our current situation in that we perform the testing that is requisitioned by physicians and asked of us to do. We do already have a number of mechanisms to influence appropriate ordering behaviour. In saying "appropriate," some testing is over-utilized; some testing is under-utilized. At this point in time, diabetes testing of those with diabetes is underutilized.

We have clinical practice guidelines, as I mentioned. There are over 30 in existence. They are recognized worldwide as world-class guidelines. We place comments on our reports when we feel that the physician might need additional information about when to order a test appropriately.



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We also are looking forward to working with the Ministry of Health and the Ontario Medical Association in a proposed tripartite committee that was brought up by our industry, where we can work together as a triangle of important stakeholders to influence ordering behaviour.

At the end of the day, you need to engineer solutions into this arena to ensure compliance, and that's where electronic laboratory ordering that is rules-based would come in, where if it makes no medical sense to order two tests together, you wouldn't be allowed to. Also, decision support: If a physician is suspecting a certain area of investigation into a patient, an electronic tool would be able to provide guidelines and pathways for that physician to perform that ordering. We believe that all of these will bring us towards better utilization.

On the diabetes front, which is underutilized, we also have a proposal in front of the government as to how we can actually ensure that patients better manage their care plan and are receiving their laboratory testing according to Canadian Diabetes Association guidelines.

**M<sup>me</sup> France G  linas:** How confident are you that this tripartite committee will see the light of day?

**Mr. Jeff MacDonald:** We have not met yet. I know that our assistant deputy minister is making the connections happen. We are hopeful to begin meeting in the fall. I don't have any further viewpoint other than that.

**M<sup>me</sup> France G  linas:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much. Questions from the government? Mr. Balkissoon.

**Mr. Bas Balkissoon:** Good morning, and thank you for being here.

Based on your input, I get the impression that you're very supportive of the bill and that it's going in the right direction. Can you comment in terms of how you see it being used? I know it's strictly focused on the hospital area. If we were to roll it out to the other sectors as time goes on, how do you see it improving the whole health care outcomes for patients?

**Mr. Jeff MacDonald:** Maybe I can comment on how I can see it applying to the laboratory sector.

I believe that the capped funding environment that we are in today would be improved by having some measure of ensuring that those who do a better job in service and quality are rewarded to a larger degree, which will help them reinvest those dollars into continually improving their service to the patients. I believe that LifeLabs is the highest-quality player and highest-service player within our industry. I'm biased, of course, but these would be mechanisms for us to truly continue that improvement pattern, which will end up in improved patient outcomes and improved cost savings, cost avoidance and value for the money that is paid to laboratory services.

I also see our ability to provide these services across greater than the community sector, and I am very encouraged by the language that the public sector will be reaching out more to the community sector providers to

help assist in the improvement of the overall system. This bill, I believe, paves the pathway for that.

**Mr. Bas Balkissoon:** Thank you very much.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Mr. MacDonald, for your presentation.

**Mr. Jeff MacDonald:** Thank you.

## INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

**The Vice-Chair (Ms. Leeanna Pendergast):** We'd now like to call on the Office of the Information and Privacy Commissioner of Ontario. Dr. Cavoukian, please come forward. Good morning. Thank you for being here this morning. You have 15 minutes for your presentation. As you know, any time that you don't use will be shared equally amongst all three parties. If you would introduce your team to us this morning, please.

**Dr. Ann Cavoukian:** Good morning, ladies and gentlemen. My name is Ann Cavoukian. I'm the Information and Privacy Commissioner of Ontario. I'm joined here today by my assistant commissioners Ken Anderson and Brian Beamish. I thank you very much for allowing me to speak to you today.

Madam Chair, members of the standing committee, I thank you for the opportunity to comment on Bill 46, the Excellent Care for All Act, intended to ensure that health care organizations are responsible and accountable to the public. Accountability is key.

As you are aware, my office is responsible for overseeing both the public sector access and privacy laws and, most notably, health-information-sector privacy legislation in the province of Ontario. It is further to this mandate that I'm here to speak to you today. In particular, I'm here to request that Bill 46 be amended to include hospitals as institutions under the Freedom of Information and Protection of Privacy Act—a simple amendment.

One of the primary purposes of Bill 46 is to improve the transparency and accountability of the health care system. In my view, the most effective and efficient way to achieve this objective is by bringing hospitals into public sector access and privacy legislation. Access to such information would enable citizens to obtain information necessary to scrutinize important public policy choices such as how their tax dollars are being spent and to participate fully in the democratic process. This is particularly important given the current economic environment and given the recent attention to and scrutiny of the expenditures of the health sector.

The precise language for the proposed amendment is set out in our written submission, which has been provided to the clerk of the committee. However, let me take the time available to provide you today with a brief rationale for the proposed amendment. Also, the amendment and the submission are very short and straightforward.

Hospitals are currently required to protect personal health information, medical information, and to provide



individuals with access to their health-related records. Designating hospitals as institutions under the Freedom of Information and Protection of Privacy Act would complete these responsibilities by providing transparency, which is presently lacking, and access to general records, such as those related to the procurement of goods and services, as well as matters of governance such as budgets and costs of facilities, programs and services offered by hospitals.

For many years now, my office has been repeatedly calling upon the government to extend public sector access laws to all publicly funded institutions, including hospitals and universities. We were successful in bringing universities in under the act. They were made subject to the Freedom of Information and Protection of Privacy Act in 2006. We're very grateful, and it's been working very well. Hospitals, however, have yet to be covered. In my most recent annual report, I again urge the government to bring Ontario hospitals under freedom of information.

Our hospitals are subject to public sector legislation in the area of health information, PHIPA. But I want to make it very clear: Our hospitals are not subject to public sector legislation in terms of freedom of information, unlike every single other province in this country. Ontario is the only one that does not have this kind of scrutiny for its hospitals. To me, that is appalling and, quite frankly, an embarrassment when I meet with my fellow commissioners from across the country, because we have outstanding health information privacy legislation.

PHIPA, the Personal Health Information Protection Act, which we introduced in 2004 and came into effect in 2005, is outstanding. Everyone raves about this legislation all around the world. The United States is reviewing its HIPAA legislation, the privacy rule associated with its legislation, and it reviewed all health information privacy laws around the world. The only one law they picked to form the framework as the basis for the revisions to the privacy rule in HIPAA is Ontario's PHIPA. So we can be very proud of PHIPA. The only thing we can't be proud of is the fact that there's no public sector coverage in terms of transparency of hospitals under freedom of information.

Bill 46 imposes transparency and accountability requirements, including the establishment of quality committees, the creation and posting of annual quality improvement plans, carrying out surveys of employees and persons who receive services, and the development and posting of patient relations processes. These will all require additional resources, which is already considered under Bill 46. So any additional resources to implement the freedom of information requirements that I'm asking for would be negligible to non-existent. It's going to cost hardly anything to add hospitals under Bill 46.

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Bringing hospitals as institutions under FIPPA would not interfere with the effective and efficient delivery of health care services in any way—that's the other point that's very important—because the collection, use and

disclosure of health-related information will continue to be governed under PHIPA, which as I said, is working beautifully. It's a perfect statute. It's really to be commended. That's already under way, so there's no issue.

It would also not interfere with the following areas: existing protections limiting the disclosure of quality-of-care information as defined under the Quality of Care Information Protection Act, 2004. Quality of care would remain outside of the purview of what I'm proposing. There's just no issue. It's not going to be a problem. Labour relations or employment-related matters in subsection 65(6) of our act, FIPPA, aren't going to be covered either because they've been out for many years. If you may recall, Bill 7 took out labour relations from FIPPA, so labour relations is not going to present a problem.

To minimize the impact of the Freedom of Information and Protection of Privacy Act, the proposed amendment also need not come into full force and effect upon royal assent. If you needed a year to delay it, for example, to permit the necessary time, so be it. To allow sufficient time for hospitals to prepare for their new responsibilities, the proposed amendment could come into force at a later date, either proclaimed by the Lieutenant Governor in Council or as specified in Bill 46.

My office will be pleased to work with the Ministry of Health the Ontario Hospital Association—which I have been speaking to regularly—and hospitals to ensure a smooth transition. As I said, I've already spoken to the OHA, to the president and chief executive officer of the OHA. I've spoken to the Minister of Health and Long-Term Care very recently and will continue to do so to convey these views.

Let me conclude by saying that I'm here to seek your support in providing the citizens of Ontario with the rights of access enjoyed by citizens in every other province in Canada. Ontarians deserve no less.

Thank you very much for considering my views in relation to Bill 46. I urge you to make this a reality. I would, of course, be pleased to respond to any questions you may have.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, Dr. Cavoukian. We have about three minutes for each party for questioning, and we'll begin with the third party. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Thank you. It's a pleasure to see you. I must say that you're preaching to the converted right now. I support you 100%. It doesn't cost anything. The major stakeholders are on board. The Ontario Hospital Association is on record. It is the right thing to do. I agree with you. PHIPA is way up there. It really put Ontario on the map.

You have been bringing this issue forward for a while. What are the arguments against?

**Dr. Ann Cavoukian:** I'm the wrong person to answer that, but I'm going to take a shot at it. What surprises me and what delighted me was that in October of last year, the OHA, on their own, came forward to the government and said, "Bring hospitals under freedom of information.



We want to have that kind of transparency.” I was thrilled. I immediately contacted the OHA, Mr. Closson, the CEO; I contacted the Minister of Health. I’ve been doing a letter-writing campaign—poor government—to the Minister of Health and to the Premier. The Premier has publicly said that he’ll seriously consider it; he’s very interested in doing this.

I don’t think philosophically there’s a problem. I think why it’s snagging, if you will, is resources. Everyone is concerned with not increasing tax dollars; I understand that. As I’ve outlined, I truly think this would not cost additional dollars because you have to have a framework in place for Bill 46, with all the transparency requirements that it introduces. The resources you introduce for that, I think, will cover what may be required under FIPPA. Also, PHIPA already has a system in place where you have people: You have staff who respond to requests for personal health information, which is permitted to be given to patients. You can also use those resources, so I don’t think it’s a resource issue.

I know there was an issue with quality of care. You don’t want to mess with quality of care, and it’s not a problem with that at all because quality of care already is quite separate and would continue to be. I’m happy to put that in writing.

If it’s not money and it’s not quality of care, I am at a loss. I really am. Truly, for not only the transparency and accountability, but why should Ontario citizens—it’s like we’re second-class citizens because we don’t get this. Every other province in the country has this. I’m embarrassed. I’m rarely embarrassed, because we do such an outstanding job in Ontario. We lead. Truly, with PHIPA, we’re at the head of the world.

Let’s make this single correction and equal them.

**M<sup>me</sup> France Gélinas:** You said that you wrote to the Premier and the minister. Would you be at liberty to share their answer with the group when you get an answer?

**Dr. Ann Cavoukian:** I’ve already gotten answers. They’ve both been very responsive. They’re certainly interested in promoting transparency. The Premier said that he would seriously consider it. I recently met with the Minister of Health; she was very interested as well. I think her concerns, understandably, relate to resource implications. No one wants this to cost more; I understand that. We would work very hard to work with the government and the OHA to craft a solution to keep the resource expenditures minimal.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much. Mr. Balkissoon?

**Mr. Bas Balkissoon:** Good morning, and thank you for being here.

You said that you have been in constant contact with the OHA and the ministry with regard to your request. Other than saying that the OHA is supportive, have they expressed any issues with you that they would require to get up to speed to meet legislation, and what would those be?

**Dr. Ann Cavoukian:** As I said, I have spoken to them. I did a round of consultations with them in October

when this came out because, really, we were delighted. I applauded them, and everybody was spoken to—letter writing. Recently, when we noticed that there was an opportunity through Bill 46 to introduce an amendment—which we have drafted, so there’s no work on the part of the government—that’s when the conversations arose again.

I only just heard a few days ago—I’ll be very clear—that there was any kind of problem, so I contacted the OHA again. I spoke to Mr. Closson and his team. The discussion centred around there needing to be a thoughtful consideration of the process and what factors could be affected. I was perplexed, and I spoke to them as I’m speaking to you. I said, “I’m baffled.” We’ve been looking at this for 20 years; this is not a new issue. Quality of care is not on the table. Resources: We can work on that. There are already resources required under Bill 46.

Help me. Is there—

**Mr. Ken Anderson:** Labour relations are not there.

**Dr. Ann Cavoukian:** Labour relations are not there. It’s out; it has always been out.

I don’t get it. Consider a discussion of what issues? I’m sorry; I sound like I’m being cavalier. I’m a little frustrated. I honestly don’t know what the issues are beyond that. Quality of care: Absolutely right for them be concerned with, but it’s off the table. It will not be an issue, believe me, and I want quality of care as much as anyone.

The resources: We can work with them, as I said. There are already resource implications built into Bill 46. We will work very carefully to just find a system to add to that that will ensure that that also extends to PHIPA.

**Mr. Ken Anderson:** Start-up time of a year—a delay.

**Dr. Ann Cavoukian:** That’s right, and we’re happy to offer that. Understandably, it would take time for hospitals to prepare and get ready for this. All of this takes time. I fully accept that. That’s why we conceded that it could take—start-up time, a transition period of a year or a period yet to be determined; that could certainly be discussed. I think those were the issues.

**Mr. Bas Balkissoon:** Thank you very much.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you. Mr. Chudleigh?

**Mr. Ted Chudleigh:** Under the bill, the hospitals have to set up quality assurance committees. Each hospital has to do this. Since these quality committees would be operating under the CEO, or at least the CEO would have some influence over the striking of these committees, do you see that as an inherent conflict of interest? I’d appreciate your comments on whether or not you think the standards that the CEO has to meet should be provincially mandated as opposed to mandated by each of the hospitals.

**Dr. Ann Cavoukian:** Those are very good questions, and I want to be very clear: I have not turned my mind to those issues. We have been focusing on the transparency and accountability issues of Bill 46. I don’t know if I’m qualified to give you a solid answer on that, so I don’t



even want to attempt to speculate. It's not my area of expertise, and I just don't want to be speculating. I apologize.

**Mr. Ted Chudleigh:** Within your organization, if you were to set up quality standards, would you see yourself as having influence over the committee that would be set up to do that? Do you think that would be a fair and practical way to do things?

**Dr. Ann Cavoukian:** I'm going to ask my assistant commissioner to help me with that question.

**Mr. Ken Anderson:** With respect, as our commissioner has said, it's not an area that we've currently been discussing. But in terms of governance and management more generally, there's a broad literature on quality assurance, quality care and so on, and how to do that. So if we were setting that up, we'd go back to the literature, study that and come to our conclusions. We haven't done that backgrounding, and so for us, I'm sorry; it would just be speculation and not properly informed.

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**The Vice-Chair (Ms. Leeanna Pendergast):** Ms. Elliott?

**Mrs. Christine Elliott:** Thank you very much for joining us today, Dr. Cavoukian. I think that the suggestions that you're making make sense if you are going to go to the extent of having a quality assurance committee. The suggestion that you have made makes perfect sense and can be implemented without any increase in cost to increase transparency and accountability, and the Ontario Hospital Association is on side with it. I think your amendment makes very good sense. Thank you.

**Dr. Ann Cavoukian:** Thank you for your support. Thank you very much.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much for your presentation and for being here with us today.

**Dr. Ann Cavoukian:** Thank you.

## ONTARIO CHIROPRACTIC ASSOCIATION

**The Vice-Chair (Ms. Leeanna Pendergast):** Our next group has had to cancel, so we will move to the Ontario Chiropractic Association. Fortunately, Dr. Robert Haig is here with us already, so we thank you for being here and for beginning early with us. Thank you very much. As you know, you have 15 minutes. Any time you don't use will be used up for questioning. You can begin. State your name for Hansard, please.

**Dr. Bob Haig:** Thank you very much, and good morning. My name is Bob Haig and I'm the executive director of the Ontario Chiropractic Association. First of all, let me thank you for this opportunity to provide some input into your deliberations.

The Ontario Chiropractic Association, established in 1929, is the professional association representing the chiropractic profession and the chiropractors in Ontario. It's a voluntary association whose mission is to serve its members and the public by advancing the understanding

and use of chiropractic care. Over 3,000 chiropractors, or 82% of the practising chiropractors in Ontario, are members of this voluntary organization.

Although chiropractic services are not publicly funded in Ontario, they remain an important part of the health care system. Chiropractors work independently in private clinics, but they also work with other health care practitioners in collaborative settings: within family health teams, in community health centres, in long-term-care facilities and in some hospital settings.

In Ontario, chiropractors play an important role providing health care to more than a million patients annually. Musculoskeletal disorders—the chiropractor's area of expertise—rank second only to cardiovascular disease as a major cause of chronic health problems and long-term disability. Musculoskeletal disease is a major cause of long-term health problems and disability, and a large proportion of Ontarians with these problems rely on chiropractors and regard them as an important resource within the Ontario health care system.

In Ontario and across Canada we are all justifiably proud of our universal, publicly funded health care system. The health care system consumes 46 cents of every program dollar, and I think we all understand that that's predicted to go much higher in the years ahead unless we start to do things differently. So there is understandable pressure on health care funding, and as that pressure increases, there will be tough decisions to make, not unlike the decisions made in 2004 to de-list chiropractic services, most physiotherapy services and most optometry services. I am not questioning those decisions at all, but I'm using this to draw a parallel between them and the tough decisions that are ahead. It's important to point out that the changes in funding status that were made a number of years ago did not diminish the role of these services in our health care system or render them any less valuable to the millions of patients who rely on them, nor have they reduced the need for a system that integrates health care providers in a way that puts patients in the centre.

Today, the existence and utilization of optometry, physiotherapy and chiropractic services by Ontarians, and the collaboration between those practitioners and practitioners in the public system, continue to support the government's quality and patient-centred agenda. These practitioners facilitate the sustainability of the public health care system, and this actually does lead into the comments I wanted to make on Bill 46, which are brief and are restricted to those parts of the bill that deal with the Ontario Health Quality Council.

Let me first express our support for the government's focus on organizing health care around the patient, as was emphasized in the speech from the throne. We support the government's intent to ensure the best quality of care for Ontarians by continuously improving quality across the system and promoting evidence-based care that is collaborative and patient-focused. We have three main points.

The first one relates to the overall focus of the council. The functions of the council as set out in section 12 are



most welcome. Monitoring and reporting on access, health human resources, health system outcomes and population health is clearly an important role. The existence of a dedicated body that reports not just to the minister but to the public on these issues is laudable. Ontarians cherish our health care system, but they do not always fully understand the difficulties that the government faces in sustaining it. The mandate of the health quality council will help in this regard.

In section 12(1)(a), points (i) and (ii) refer to monitoring and reporting on access and health human resources, but they restrict those examinations to publicly funded services. On the other hand, points (iii) and (iv) require the council to report on overall health and population health status as well as outcomes for the health system overall, generally speaking.

In the face of the significant economic challenges, we need to make a concerted effort to make sure that all parts of the health care system are functioning well and, just as importantly, that they're functioning in a coordinated and supportive manner.

The considerations of patient access and availability of health human resources within the public system should take into account the impact of and should determine how best to utilize those health human resources which work in the not-funded system but work in concert with the publicly funded system. Patients who receive these unfunded services realize that the public system does not operate in isolation. So we're recommending that section 12 be amended so that the references to monitoring and reporting on access and health human resources apply to the system as a whole rather than to just the publicly funded part of the system.

With respect to clinical practice guidelines, I know we echo others in the health community by applauding the government's focus on evidence-based care and CPGs. The chiropractic profession has considerable experience with the development and application of CPGs and looks forward to contributing to the work of the council.

Chiropractors utilize a wide range of evidence-based interventions. Many of you will be aware that spinal manipulation, as a treatment, as an intervention, is used primarily by chiropractors. It's used by others, but 90% of the spinal manipulation that's delivered to patients is delivered by chiropractors.

What you may not know and may not realize is that there's more evidence related to the effectiveness of spinal manipulation in the management of acute and chronic back pain than there is for any other back pain intervention. That's why a recent analysis of 17 international practice guidelines published in the journal *Spine* found that spinal manipulation was consistently considered a first-line intervention in the management of back pain. Studies have demonstrated not just the effectiveness of the treatment but also the impact it has on reducing medication use and other costs in the system. And yet today, in our publicly funded system, there's limited capacity to deliver this effective, evidence-based treatment to Ontarians who are living with one of society's most debilitating and costly conditions.

I'm not suggesting that chiropractic should be re-listed under OHIP, but we're recommending that the clinical practice guidelines that are developed or considered by the health quality council take into consideration the full scope of the evidence and that it be used to inform and shape the delivery of quality care, regardless of whether or not the services are publicly funded.

The chiropractic profession in Canada has been developing clinical practice guidelines since 1993. For example, the guideline on adult neck pain not due to whiplash was published in 2005, and the document includes not just the technical guideline but also a short version for ease of use by practitioners, a patient handout, a clinical decision-making algorithm and a cervical spine manipulation decision-making algorithm. A similar group of documents was produced for the most recent guideline on whiplash-associated disorder in adults, which was published in the journal *Work* in 2010.

It's important to understand that the development and dissemination of clinical practice guidelines is only the first step and is not sufficient to ensure quality care. We understand the disparity that exists throughout the health care system between clinical practice guidelines and actual practice. Knowledge transfer, the process by which guidelines become understood and adopted by clinicians, is key to their dissemination but is also very difficult to implement. That's why we have partnered with the Institute for Work and Health, along with the College of Chiropractors of Ontario and the educational institution, which is the Canadian Memorial Chiropractic College, on a program to facilitate the uptake and use of not just CPGs, but also best-evidence practice by chiropractors in Ontario.

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Guidelines are taught in the educational institutions, where behaviour and future practice patterns can be most influenced. A recent X-ray utilization study based on OHIP data reported a 21% decrease in the use of radiographs by chiropractors between 1994 and 2000. That, of course, is consistent with what the emerging guidelines were saying should happen at the time, and the authors attributed that to the education that chiropractors were receiving as the vehicle for translation.

Given the chiropractic profession's experience in the development of comprehensive clinical practice guidelines and the importance of these guidelines to the health system as a whole, we recommend ensuring that the Ontario Health Quality Council's role with respect to CPGs is not limited to publicly funded organizations or services.

Finally, with respect to the quality council's ability to make recommendations on funding, the chiropractic profession understands the depth of the dilemma facing the government. A move to clearly and decisively base funding on evidence is an extremely positive thing. We applaud the call in section 12(4) for public consultation and public tabling of the reports on this. These provisions describe a new level of commitment to transparency and patient-centred care.



The very concept of patient-centred care requires sensitivity to patients' needs and choice regardless of the sources of funding. We appreciate that this bill focuses on publicly funded health care organizations, yet changes to these organizations will impact the health care system in general, including those practitioners not publicly funded, but who also contribute to the provision of quality evidence-based, patient-centred care. Further, the not-publicly-funded sector of the health care system care has expertise that is of value and can be tapped into. We recommend that these practitioners or their organizations be participants in the development of advice to the minister and others on these matters.

That completes the presentation, and I would be happy to answer any questions.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, Dr. Haig. We have about two minutes for each party to ask questions. We'll begin with the government. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Mr. Haig, thank you very much for being here today. I just want to thank you for your presentation.

**The Vice-Chair (Ms. Leeanna Pendergast):** Mr. Colle.

**Mr. Mike Colle:** I just had a question, Dr. Haig. The intriguing thing is, you mentioned the reduction by 23% in the use of radiology in the treatment of skeletal issues. Can you explain that briefly?

**Dr. Bob Haig:** During the 1990s, when the scientific evidence started to demonstrate that the use of X-rays should be more limited because the value in many patients simply wasn't there and that it should be reserved for those patients where there was suspicion of something serious, the guidelines that came out of various sources started saying exactly that: The use of plain film radiography for the vast majority of simple low back pain is not warranted. What I'm saying is, as a result of that during that period of time—and it was largely the education that took place in the educational institutions that triggered that reduction. I'm speaking to the value of those kinds of guidelines, but also to the difficulty it takes sometimes in order to translate evidence into actual practice.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Ms. Elliott?

**Mrs. Christine Elliott:** Thank you very much, Dr. Haig, for your presentation. It was very helpful, and I gather that what you're trying to do is to make sure that we don't continue to operate within the same box in the delivery of health care services, that we be innovative and we use all health care professionals to the fullest scope of their practice, and if you don't have everyone at the table, you won't get to understand the full perspective.

**Dr. Bob Haig:** That's a much better synopsis than I made. Yes, that's right. Ontario needs a health care system that is actually broader than the publicly funded one. I know that's maybe a bit of heresy, but in reality it exists now. We need to make it work as well as we can.

**Mrs. Christine Elliott:** I agree, and I thank you very much for bringing that perspective to us today.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you, Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Good morning, Bob. Nice to see you again.

You brought a focus on one little part of the bill, which has to do with the health quality council, and I think you made a very good, clear explanation as to: If the mandate of the health quality council is limited to what's publicly funded, we're going to miss the boat. Because I expect that there will be reluctance on this side of the room to accept this, what do you figure will happen if we continue? If we don't make an amendment to the bill and the bill stays the way it is, where they only look at publicly funded, what will happen?

**Dr. Bob Haig:** The bill will still be very effective if that happens. The concepts of basing funding and basing care on evidence and guidelines, the principle of that and putting that in legislation and applying that to just the publicly funded system will have very significant impacts. From the perspective that I sit at, it could be greater than that if that mandate was expanded, but there's no question that it will be a very significant piece of legislation that will have significant positive impacts.

**M<sup>me</sup> France Gélinas:** So if we look at the example that you bring forward on spinal manipulation, Ontario could develop best practices for a spinal disorder that completely exclude spinal manipulation, because right now, it is not performed by the insured part. How could that be best practice, when all of the evidence in the world will show us, but we will completely ignore that evidence because it's not evidence that comes from the publicly funded—how could that be good?

**Dr. Bob Haig:** Practice guidelines tend to not talk about professions; they talk about interventions. So it's inconceivable to me that a guideline could be developed in Ontario that did not reference spinal manipulation, and that does present a challenge.

**M<sup>me</sup> France Gélinas:** It's inconceivable? It's not inconceivable to me, the way the mandate is written right now. They will be looking at what our publicly funded health care professionals are doing. That's why you want changes.

**Dr. Bob Haig:** That's why we want changes.

**M<sup>me</sup> France Gélinas:** Very good. Thank you.

**The Vice-Chair (Ms. Leeanna Pendergast):** Thank you very much, Dr. Haig, for your presentation.

Seeing no further business for this committee, we are recessed until 2 p.m.

**Mr. Mike Colle:** Excuse me, can I have some clarification of who was here and who wasn't supposed to be here? I see the chiropractors are here.

*Interjection.*

**The Vice-Chair (Ms. Leeanna Pendergast):** No. CUPE cancelled; they were unable to be here. Then there was the college of chiropractors, who called in late and asked us if they could present. So we're looking to put



them in this afternoon, because we got unanimous consent.

**Mr. Mike Colle:** Okay, that's good.

**The Vice-Chair (Ms. Leeanna Pendergast):** This committee is recessed until 2 p.m. Thank you.

*The committee recessed from 0958 to 1403.*

**The Chair (Mr. Lorenzo Berardinetti):** Let's call the meeting to order. Welcome to the Standing Committee on Justice Policy afternoon session. I want to thank Leeanna Pendergast for chairing this morning.

**Ms. Leeanna Pendergast:** My pleasure, Chair.

We're here on Bill 46, An Act respecting the care provided by health care organizations.

#### REGISTERED NURSES' ASSOCIATION OF ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** The next deputation, scheduled for 2 o'clock, is the Registered Nurses' Association of Ontario. If you'd like to come forward, you can sit over here. Also, there's water available. I understand that you may want to take a photograph; there's a photographer present. As long as committee members don't mind—there's a request to take a photograph. You have 15 minutes to make your presentation. Any time that you don't use for your presentation will be used for questions from committee members.

**Ms. Irmajean Bajnok:** Thank you very much. It's a real pleasure to be here. I really want to thank you for giving us this opportunity to share our views and recommendations related to this most important act.

My name is Irmajean Bajnok and I'm the director of the best practice guidelines program at the Registered Nurses' Association of Ontario. With me today is Valerie Rzepka. She is nursing policy analyst at RNAO.

RNAO, as many of you know, is the professional association for registered nurses who practise in all sectors and roles in this province. We represent 30,000 nurses but speak, really, on behalf of all registered nurses in the province. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of all Ontarians. We appreciate the opportunity, as I've said, to present this submission on Bill 46 to you, the Standing Committee on Justice Policy.

The RNAO welcomes this legislation because it seeks to promote evidence-based practices and make health care organizations and executives accountable for providing the highest-quality patient-centred care. However—and there's always a caveat—in order to make Bill 46 stronger and more effective, we do believe, based on our experience as registered nurses and as an association of registered nurses, that a number of amendments must be made if the government wants to achieve its goal of continuous quality improvement while, at the same time, being accountable to the public and to patients.

Bill 46, as it now stands, applies to every health care organization, defined in section 1 as a hospital according to the Public Hospitals Act and “any other organization

that is provided for in the regulations.” Initially, as we read it, the legislative changes will only apply to the hospital sector, with other sectors coming on stream at a later date.

At first glance, it seems understandable why this legislation will be phased in over time, but we believe there is a risk that the bill's best intentions may lead to its undoing. If the Ministry of Health and Long-Term Care wants to improve value and quality, success will rest on the rate of readmissions to hospital. Last year, according to ministry figures, a full 140,000 patients were re-admitted to hospital within 30 days of their original discharge. If high-quality, age-appropriate care is not available in the community for those leaving hospital, many—as this statistic shows—will inevitably find themselves back in hospital, often occupying alternate-level-of-care beds.

For that reason, we believe it's crucial that the legislation include a robust home care sector, allowing people to live independently at home with dignity. The same assurances of quality and accountability that we expect of hospitals with Bill 46 should also be expected of the community sector.

Reducing hospital readmissions and increasing value depend on improved efficiency at every stage. For example—and I've just personally experienced this over the weekend—it's not unusual for some hospital patients to wait several hours or even until the next day for physicians to be available to sign their discharge orders or transfer them from one unit to another. This has a negative effect on patient satisfaction, it blocks patient flow through the hospital, it increases the risk for hospital-acquired infections and it unnecessarily wastes resources. Sometimes these delays can extend over an entire weekend, preventing a patient who is sufficiently recovered from being discharged.

Nurse practitioners have the knowledge and skills to admit, treat, transfer and discharge patients in in-patient settings. With the necessary regulatory authority, nurse practitioners can and will play a key role in improving the smooth movement of patients through the health care system.

A section of the bill is also devoted to the establishment of quality committees. Such a committee would monitor and report to the health care organization's board of directors. It would also have the power to make recommendations regarding quality improvement initiatives and policies, ensure that scientific evidence of best practices is circulated to employees, and monitor the use of these best practice guidelines.

One thing that is not spelled out in this bill is the membership and composition of these quality committees; this is to be determined later in regulation. We believe the principles of interprofessional collaboration should be established in the act itself and not wait for regulations and that the makeup of quality committees includes representation from each regulated health profession practising in the organization.

RNAO has a wealth of experience in the development and implementation of evidence-based best practice



guidelines. I, myself, have the privilege of leading a wonderful team that oversees and carries out the development and implementation of these guidelines in a variety of settings in this province, in the country and around the world.

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In the area of clinical care, excellence in practice is a dynamic process in which the best theoretical and practical knowledge is considered and adopted in each encounter with a patient or a client. Such excellence, we believe, is fundamental to achieving the best health outcomes for the patients, for clients, for the caregiver and for the system as a whole.

RNAO's international affairs and best practice guidelines program, as I've mentioned, is a signature program. It has set the bar for evidence-based practice, not only in nursing but in a number of other health care professional groups. This program was launched 11 years ago in 1999 with multi-year funding from the Ministry of Health and Long-Term Care. To date, it has developed 35 clinical best practice guidelines in key areas of patient need, and it has developed seven healthy work environment best practice guidelines.

In its 11-year history, RNAO's best practice guidelines program has resulted in significant improvements to health care. I'll share two examples with you.

Long-term-care homes that implemented the falls best-practice guideline, in a national initiative we were asked to lead, saw a 40% reduction in falls and in injury from falls. With each serious fall costing the system about \$35,000, you can appreciate that outcomes such as this are positive for the residents and clients we serve and also positive for the bottom line.

Another example shows that in Montreal, where we do have an organization that is implementing our guidelines, the McGill University Health Centre reported a 50% reduction in the rate of pressure ulcers as a result of using the best practice guidelines in this area. Again, what we have found is that using those guidelines, then, not only increases the quality of care but reduces cost.

Our leadership in promoting the use of best practice guidelines has been recognized locally, nationally and internationally. We have received numerous awards—three that I'll mention. One is an excellence award from the Minister of Health for our work in long-term care improving the quality using best practice guidelines. Another is international, again, through linking our best practice guidelines with bringing the best evidence to the point of care.

Evidence-based practice is critical to the provision of quality, client-centred care, but just as important is ensuring a healthy work environment in which to work. We have developed guidelines, then, that also focus on key work environment areas, such as respect, developing effective leadership, creating positive health teams and promoting a culture of safety. Medical evidence is critical but not the sole source of high-quality research. We believe that health care professions such as nursing contribute significantly to the body of health care re-

search that focuses both on clients as well as on healthy work environments. We would hope that the investment that the Ministry of Health has made in our program related to best practice guidelines would be cemented with the integration of these best practices across all sectors of the health care system and reflected in this act.

Under the government's proposed legislation, every health care organization must develop and make public a quality improvement plan for the upcoming fiscal year. Upon request, as you know, the health care organization must provide a draft of the plan to its LHIN for review before it is made public. This plan would include the results of patient and caregiver surveys, data about critical incidents, annual performance improvement targets, and information on how executive compensation is linked to achievement of those outcomes or those targets.

Public disclosure of an organization's quality improvement plan is desired and certainly desirable. What's not clear in the legislation is whether a LHIN could withhold or delay certain pieces of information if it was deemed in their interest. RNAO believes transparency must be the rule of the day for that reason and believes the legislation should be amended to prevent the ability of a LHIN to receive a draft of the annual quality improvement plan before it is released to the public.

In order to further improve accountability and ensure transparency in the system, RNAO believes the public must have access to information on the expenditure of public money. This includes making hospitals subject to public scrutiny under the Freedom of Information and Protection of Privacy Act, ensuring public oversight of hospital consultancy contracts and granting the Ombudsman the right to investigate public complaints against hospitals and other health organizations. Currently, Ontario is the only province where the Ombudsman does not have jurisdiction over hospitals and long-term-care homes, despite receiving many serious complaints from these facilities.

In the preamble to Bill 46, the language pointedly states that the quality of a health care system is synonymous with accessibility, equity and integration. We would add to that a recommendation that hospital boards reflect the diversity of their communities and that the appointment process be—

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Bajnok, I don't mean to interrupt, but you have about a minute left.

**Ms. Irmajean Bajnok:** —be democratic, transparent and representative of the community's demographic profile.

I wanted to also mention information about the medical advisory committee. The medical advisory committee proviso in the Public Hospitals Act really provides one caregiver—physicians—with inequitable access, we believe, to decision-making structures and to key administrative personnel. We believe that medical advisory committees should be replaced with interprofessional advisory committees, allowing all professions to have a



say in the provision of care. In addition, we do believe that the presence, then, of the head of the MAC on the board again gives unequal power to one particular group.

We wanted to end by stressing that we truly believe it is important that we focus on quality of care through continuity of care and continuity of caregiver, and we want to strongly reinforce that the provision of 70% full-time in our health care organizations is really a critical component of continuity of caregiver.

We want to also stress that, in hospitals, there be great attention paid to the assignment of one patient or the full care of a patient to an RN or an RPN, as the situation warrants, with RNs caring for complex patients and RPNs caring for those who are stable. We feel that changes in the care delivery model that move away from this have had detrimental effects on the system.

We wanted to end by focusing on the fact that there has been an announcement at the same time that indicated that government—

**The Chair (Mr. Lorenzo Berardinetti):** We're down to about 30 seconds.

**Ms. Irmajean Bajnok:** —would be moving to larger hospitals having a patient-based funding model of payment. We would like to urge that care be given so that this same proviso is not necessarily applied to rural and northern hospitals. They may need some different attention.

With that, I'd like to thank you very much and indicate that you do have a folder that has considerable information in it related to our best practice guidelines and our presentation today.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your very thorough presentation, and thanks for coming here today.

## ASSOCIATION OF ONTARIO MIDWIVES

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our 2:15 deputation, which is the Association of Ontario Midwives. Good afternoon, and welcome.

**Ms. Katrina Kilroy:** I'm Katrina Kilroy. I'm the president of the Association of Ontario Midwives and I'm a practising midwife at Mount Sinai Hospital, down the street. This is Kelly Stadelbauer, who is the executive director of our association.

I want to thank you for the opportunity to address the standing committee today and to let you know that, generally, we are supportive of this bill. Many of the broad concepts that are in this bill are an inherent part of midwifery care. Overall, we applaud the efforts of the government to make health care providers and executives accountable for improving patient care and experiences. We agree with much of what the RNAO said. You'll see that reflected in our written submission, which will be coming along in a few days.

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There are a number of components in the act that we think will contribute to the goals you've stated. Today, I

want to focus on four considerations that we think would strengthen the act.

Number 1, we would like the act to consider and address any potential unintended consequences that may decrease access to services, specifically pregnant and labouring women having to travel further distances to access care.

One of the dangers we are concerned about in the legislation is that it may unintentionally give an incentive to CEOs to divest their organizations of those health care services that are perceived to be too challenging to make the necessary quality improvements. For example, birth units, which are very complex, are already under pressure to close due to costs. They could now become even more vulnerable to closure because their rates of C-section, epidural, breastfeeding etc. are poor when compared to other Ontario hospitals. If a CEO's performance is measured by quality indicators, then there may be an incentive to get rid of the outlier indicators by shutting down the service completely. We know that the closure of birth units forces pregnant women to travel further for labour and delivery impacts negatively on quality-based outcomes. Yet, these impacts would not be measured by the hospital of the unit where it was closed and, therefore, would not negatively impact on CEO pay. There needs to be protection for communities and for patients so that these services with poor or fair quality indicators cannot be shut down; rather, they must work to improve those indicators so that there must be some disincentive or penalty for simply divesting your hospital of those services. This comes from a general concern about trends to close maternity units, so we are seeking reassurance it won't be an unintended consequence of this act that more maternity units are closed.

Birth unit closures force pregnant women to travel farther for care, and we know that when birth is not close to home, quality is sacrificed. There is clear evidence demonstrating that, when women travel away from their community to one centralized hospital for maternity care, undesirable results ensue, not just in terms of the poor outcomes for women and newborns, which we know, in fact, can be the case, but also the atrophy of other aspects of women's health care, the subsequent withdrawal of family physicians from the community and a loss of skill set in remaining health care providers. We are very opposed to the practice of centralizing maternity care services and would not support the closing of birth units as a solution to human resource or budgeting difficulties.

Number 2, we would like the act to clarify that the role of the Ontario Health Quality Council is not to develop universal clinical practice guidelines, but rather to be a clearing house for and to promote the use of clinical practice guidelines. I'm going to refer to them as CPGs from now on for simplicity.

The AOM has a key reservation about the development of universal CPGs. Each health profession should be able to establish and rely upon its own CPGs based on the best available evidence and consultation with its own practitioners. For example, as experts in low-risk preg-



nancy, it is midwives who should and, indeed, do develop clinical practice guidelines for our profession, and these guidelines benefit midwifery clients. We support an approach to CPGs that reflects all of the values of informed choice: that the woman is the primary decision-maker in her care, choice of birthplace, diversity, appropriate use of technology—things that are a very intrinsic part of midwifery care. Using this approach, CPGs and adapted protocols would be the application of evidence in context.

It's the integration of clinical expertise, physiologic knowledge, patient preferences, clinical findings, the woman's and family's goals, their values, social context, geographic location, cultural, legal and community factors. You get the point? It's very complex. These contexts may be specific to the midwifery model of care or to the local community; they're not necessarily universal.

There may be clinical situations where different professions choose to collaborate on a common CPG, but this is best determined by the professions when they know they share a common approach and philosophy to care, a common client base, as well as other key factors. Midwifery clinical practice guidelines would always support the lowest-intervention approach to care based on the best available evidence.

We do think that it might be useful to have a high-level overview that ensures that CPGs are based on good evidence and that they're being appropriately applied, but we also believe that when health care professions develop their own CPGs, as is the case for midwives, quality and patient experience can be supported and enhanced.

The council could act as a clearing house and promote the use of clinical practice guidelines, examine them etc., but we want to ensure that the act does not erode the excellent quality and client experience that women in midwifery care already have access to, partly as a result of midwifery-specific CPGs.

Number 3, we would like the act to reflect an expectation that hospitals enable providers to work to their full competencies.

Let me give you an example of how this plays out in obstetrics. In spite of the provisions of the Midwifery Act, some hospitals place limits on the procedures that midwives can perform. We're talking about very simple things here. These include situations such as maintaining care of women whose labour is induced or augmented or something as simple as where an epidural is in place for pain relief. These policies are, by and large, determined by physicians within an individual hospital. As a result, there's a duplication of services, and unnecessary transfers of care are taking place. Moreover, there is absolutely no clinical evidence to indicate that a transfer of care is medically necessary. This is a clear example of an inefficiency that is produced in the system as a result of midwives being prevented from practising to their maximum competencies, and this impacts on the quality of care.

In fact, in 2001, a coroner's jury, in an effort to improve patient safety, recommended that all hospitals

follow the scope of practice as outlined by the College of Midwives of Ontario when they're establishing the scope of midwifery practice in their obstetrical units. But we knew in 2007 that still half of the hospitals in the province restricted midwives' scope in these ways. Expecting hospitals to facilitate working to full scope of practice would facilitate consistency of midwifery care across the province and the appropriate use of midwife and physician providers. Hospitals could operationalize this expectation through the quality improvement process by, for example, setting benchmarks and improvement indicators related to scope of practice. This is a measurable index of quality that can be improved upon year after year. We'd like you to consider that.

Number 4, we would like the act to reflect a commitment to reducing interventions that do not lead to improved outcomes.

Giving birth is the leading reason for hospital admission in Ontario and, as such, maternity care provides many opportunities for quality improvement in hospitals. There are many interventions in maternity care that do not lead to improved outcomes, and we would like to see this specifically addressed in the act. One such example can be found by looking at rates of C-section, which have been increasing quite dramatically in the past decade without any evidence of improved overall outcomes. In fact, an increased rate of C-sections has been indexed to poorer maternal outcomes.

A large Canadian study looked at more than two million women over a 14-year period and found that planned C-section was associated with higher rates of complication—no surprise there. While C-sections are a critical procedure for many birthing women, according to the World Health Organization, Caesarean section rates should not be above 15% overall, yet the data from Ontario indicates the rate of C-sections varies considerably among LHINs, as well as between hospitals within a LHIN. Some LHIN rates are as high as 25%, and some hospitals have rates above 35%. Certainly, as midwives, we do not believe that one third of women cannot safely give birth vaginally. We believe that these high C-section rates are unnecessary and must be improved to ensure quality and increased patient safety. We feel that it is important that the act reflect a commitment to reducing interventions that do not lead to improved outcomes, such as C-section rates and routine electronic fetal monitoring.

In conclusion, we are hopeful that the Excellent Care for All Act will improve quality and patient experience, and we encourage the government to consider following the four recommendations we've made in moving forward with the act.

We may even have a few minutes for questions; right?

**The Chair (Mr. Lorenzo Berardinetti):** Actually, it's a couple of minutes we have, so let's say one minute per party. We'll start first with the Conservative Party and Mr. Chudleigh.

**Mr. Ted Chudleigh:** The quality standards committee is an important aspect of this bill. How do you see the composition of that committee being struck?



**Ms. Katrina Kilroy:** The quality committee within the hospital or the Ontario Health Quality Council?

**Mr. Ted Chudleigh:** No, within the hospital.

**Ms. Katrina Kilroy:** You will see in our written submission some comments on that. We definitely agree with the RNAO that it would not be useful to have a physician-only committee, for example, and that it is very important to have all of the providers working in the hospital represented on that committee. We've seen the challenges presented by a medical advisory committee that is only physicians in determining policy for a number of other—for midwives, we're primary health practitioners, and we certainly feel like we have a role to play on the—

**Mr. Ted Chudleigh:** What about the general public from outside the hospital?

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**Ms. Katrina Kilroy:** Absolutely. So there's a role, I think, for the public, and this bill clearly is looking for more input from the public. Midwifery really comes from a consumer-based movement, so we're very comfortable with consumer involvement. Who exactly and how would have to be thought about a bit more in detail, but we would be in favour of that.

**Mr. Ted Chudleigh:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to Ms. Gélinas and the NDP.

**M<sup>me</sup> France Gélinas:** It's a pleasure to hear you. I fully understand what you're trying to achieve—your profession struggles at many levels in this province, although you're doing excellent work and women and families love you.

The recommendation that the CPGs be profession-specific goes completely against all of the best practices that already exist in chronic disease management, where we talk about interdisciplinary care. I fully understand that this would not work for midwives, but how do you reconcile this, that most of the other professions are going to be pushing for interdisciplinary care, which means interdisciplinary CPGs as well?

**Ms. Katrina Kilroy:** In terms of hospital protocols, having interdisciplinary protocols that all the practitioners in that hospital agree with is critical.

Our concern about clinical practice guidelines arises from what we've seen over the last decade or two. It's a highly political process. It is not simply based on scientific evidence, and medical-legal factors come into play very profoundly. These guidelines have largely led to higher and higher rates of intervention. That is our concern, and we are fairly reserved about the possibility that we might be able to come to consensus amongst all the practitioners providing care in obstetrics; for example, when an induction of labour should take place, according to the evidence. It's just not that crystal clear.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, we're going to have to move on to the Liberal party. Mr. Balkissoon?

**Mr. Bas Balkissoon:** Good to see you again, and thanks for being here.

Do you think the Ontario Health Quality Council, in the enhanced role that is being proposed in the legislation, is best suited to include the clinical practice guidelines that you talk about to ensure that you have that interdisciplinary role within the hospital sector? Do you think that what the bill is doing with that particular council and changing its mandate is not going to give you the opportunity to get the outcomes you're looking for?

**Ms. Katrina Kilroy:** Let me just say that I have a lot of concerns that that wouldn't be the case. The issue is: Who's on the council, how is it constituted and how are decisions made? That's why what we are suggesting is a higher-level overview of CPGs: reviewing CPGs, ensuring they are based on the best scientific evidence and that they are being applied etc. It takes the political component out of it and allows it to be a clinical oversight.

**Mr. Bas Balkissoon:** And you don't think the Ontario Health Quality Council can achieve that?

**Ms. Katrina Kilroy:** It may be that they could. Perhaps it could be structured in a way that there would be equitable consideration of all views, but the reality of numbers and power etc. in the province makes us concerned about that.

**Mr. Bas Balkissoon:** Okay. Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your deputation.

#### COUNCIL OF ACADEMIC HOSPITALS OF ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our next presentation: Cancer Care Ontario—I'm sorry. My apologies. The next deputation is the Council of Academic Hospitals of Ontario. Just getting ahead of myself there.

**Dr. Bob Bell:** Thank you very much. My name is Dr. Bob Bell. I'm the president and chief executive officer of the University Health Network. I'm here representing the executive of the Council of Academic Hospitals of Ontario, or CAHO. With me is Karen Michell, the executive director of CAHO. Thank you for the opportunity to present to the committee.

As some of you may know, the Council of Academic Hospitals of Ontario is the association of Ontario's 25 academic hospitals and their research institutes. CAHO provides a focal point for strategic initiatives on behalf of our member hospitals.

As research-intensive hospitals, CAHO members are fully affiliated with a university medical or health sciences faculty. Our hospitals provide the most complex and urgent care to the sickest patients in Ontario. We teach the next generation of health care providers and foster health care innovation derived from discovery research.

These discoveries include the development of the first artificial kidney machine, identification of a critical gene that causes colon cancer, and the development of digital mammography for early detection of breast cancer in young women. These types of discoveries have led to



widespread improvements in ensuring healthier and longer lives for Ontarians.

From research in the laboratory to real-life experience at the bedside, CAHO hospitals focus on improving the delivery of care and developing new and better ways to treat patients and cure disease. A 2008 national report attributed 77% of Canadian medical breakthroughs to Ontario research hospitals.

Ensuring that all Ontarians continue to benefit from the discoveries of CAHO hospitals, we need to ensure that Ontario remains a leader in harnessing this health research and innovation. CAHO will vigorously pursue the aspiration of making Ontario the premier health enterprise in the world.

By supporting an environment that produces evidence-based world-leading health research and innovation, patients will continue to benefit from the discoveries of CAHO hospitals, in turn driving quality improvement for both patients as well as the health care system.

For this reason, we're pleased to see the Ontario government moving forward with legislation that sets a framework to enable evidence and best practice to drive quality improvement which will ultimately lead to a more accessible, safe and sustainable health care system for all Ontarians.

With our time today, we'd like to focus our remarks on three key areas of this legislation: first of all, leading by example; secondly, commenting that one size does not fit all; and finally, emphasizing the importance of getting it right through collaboration.

Leading by example: Research hospitals are already doing most of what the government is trying to achieve with this legislation. CAHO hospitals have been at the forefront of efforts to drive quality improvement in health care for some time.

For instance, at my hospital here in Toronto, comprising the Toronto Western and General hospitals and Princess Margaret Hospital, we have had a quality of care committee established under QCIPA, the Quality of Care Information Protection Act, that has been established for some time. This committee is tasked with reviewing critical and severe incidents, ensuring quality patient care and improving the safe environment for patients, visitors and staff. This multi-disciplinary committee meets a minimum of 10 times a year, is chaired by the CEO and provides quarterly updates to our board. I know we're not alone; many CAHO hospitals have a similar model of quality-of-care review.

In addition, UHN has a quality committee of the board since the Public Hospitals Act deems the volunteer board accountable for the quality of care delivered in the hospital. The purpose of this committee is to review the quality of patient care offered by all our programs and service delivery at UHN and make recommendations to the full board as required by monitoring key indicators set annually and negotiated with the board, setting targets for management achievement. This committee employs an annual performance improvement plan with measurable goals. In our hospital, as with many others in the

province, and certainly within CAHO, we already have executive compensation tied to achievement of performance objectives.

Many research hospitals also have extensive patient relations processes. The Ottawa Hospital, for example, has a patient advocacy and clinical risk management program. This program is designed to address the concerns that patients and their families have about the care they receive. Not stopping there, Ottawa's program systematically uses these interactions with patients to learn how to make hospital care more responsive and better for all patients.

This is by no means an exhaustive list. My peers within CAHO have implemented many similar objectives across this province.

We undertook these initiatives not because we were required to do so; rather, it's ingrained within the culture of the spirit of research hospitals to strive for continuous improvement. Of course, we do this because it provides our patients with better care. As research hospitals, we develop and use evidence and best practice to drive quality improvement, ultimately leading to a more accessible, safe and sustainable health care system for all.

It's important to note that one size does not fit all. Ontario's research hospitals are world-class. We compete on a global scale for research partnerships, with industry for top clinical and research talent, and for investments. We have a unique role within Ontario's health care system.

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The mandate of a research hospital includes providing the most complex and resource-intensive patient care in the health care system, including 100% of organ transplants and 83% of neurosurgeries, to name two examples.

In addition, 80% of health research in Ontario takes place in academic health sciences centres—research hospitals—with the balance occurring at universities. As the fourth largest biomedical research centre in North America, Ontario employs 10,000 researchers in a variety of disciplines across the research hospital sector. This is an outstanding achievement for Ontario when our economic future is recognized to be tied to knowledge and innovation.

CAHO hospitals serve all Ontarians, regardless of what community a patient lives in and no matter what local health integration network the patient comes from. Hospitals serve patients from across the province.

As the government develops regulations and guidelines as described in this legislation, we caution the government against a one-size-fits-all approach to the development of quality indicators that don't make sense in all hospitals. For instance, our colleagues who operate rural hospitals have very different issues and challenges than we have at our research hospitals.

Research hospitals should have different metrics for performance than community hospitals, reflecting the different roles we play in the system. For example, our executives should be accountable for outcomes relating



to specialized care, teaching and research, but this is obviously not true for all hospitals.

We applaud the government's intent of greater transparency and accountability. Most boards of CAHO hospitals have already set performance targets for their institutions and their executives. We would encourage the government to ensure that efforts are complementary to these existing best practices already in place.

We believe that you cannot improve what you don't measure. We also believe that the baseline for measurement needs to be realistic and applicable to the local context. By taking a balanced approach to measurement, improvements across the system are certainly achievable.

As the government moves forward with regulations and guidelines for increased transparency and accountability, we would recommend that they work to ensure that hospitals, and ultimately all health care partners, measure what matters and ultimately what will drive continuous improvements. No one benefits, especially patients, from unnecessary red tape that creates process for the sake of process.

We think it's important to get it right through collaboration. As I mentioned before, we're extremely supportive of this legislation and the potential it has to use evidence and best practices to drive quality improvement. I think all members of the committee would agree that the intention of this legislation is a tremendous step forward. However, the legislation sets the framework from which these changes would occur. The details—the reality of what this legislation will do and how it will be done—will be prescribed in the subsequent regulations and guidelines.

We're extremely encouraged that the minister has stated her intent to be collaborative and consultative with CAHO hospitals and others in the Ontario health industry as the ministry develops the regulations and guidelines to support this legislation. We feel that it's important that the minister and the ministry draw on the expertise existing in CAHO hospitals as well as other places in the health care system to ensure that the details of this legislation enable the success of the intent of the legislation.

We certainly reiterate our offer to lend our expertise and guidance where regulations, policies and guidelines are developed. Through CAHO, we can ensure both the breadth and depth of engagement the government is seeking and to learn from those who have already implemented many of these changes that the government is pursuing.

In closing, we applaud the spirit of this legislation and welcome the opportunity to work collaboratively with the government and all members of the Legislature to ensure that the intent of this legislation is respected and works to provide the world-class care that all Ontarians need and deserve.

CAHO hospitals are privileged to serve a unique leadership role in our health care system, based on the fundamentals of research and innovation to drive quality improvement for patients and the health care system. We have an excellent health care system in Ontario, and we

plan to do our part to make sure that future generations have access to an even better health system.

I'd like to thank you for your time today. Karen and I would be happy to answer any questions you might have.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much. We don't really have much time—about a minute. The NDP are allowed to go first in this round. France Gélinas, if you have a question.

**M<sup>me</sup> France Gélinas:** Thank you for coming, Dr. Bell. I just heard your presentation, and I'm left with the impression that a lot of what the government is trying to achieve is something that is already in place. Am I reading too far in thinking that the bill could actually set some of our leading hospitals, members of your association, a step back, rather than a step forward?

**Dr. Bob Bell:** Certainly not. I think the legislation actually puts forward a very strong framework for quality improvement. I think that this is already present in many of our hospitals, but the spirit of continuous quality improvement is that the process is in place. It doesn't hinder us from moving forward within the same process.

**M<sup>me</sup> France Gélinas:** Would you support FIPPA being applied to hospitals, freedom of access—

**Dr. Bob Bell:** Yes, freedom of information. What we know is that this would be a resource-requiring step for the hospitals, of course, ensuring that we protect patient confidentiality while supporting that spirit of accountability and transparency. I think it needs to be something that's carefully studied and staged in its implementation to ensure that the resources are not required to be taken away from patient care and that these resources would allow us to protect patient privacy.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We're going to have to move on. Any other questions? Mr. Balkissoon?

**Mr. Bas Balkissoon:** Thank you for your input. I just have one quick question. Do you think that the role of the Ontario Health Quality Council, as demanded and as is being expanded in the bill, is best suited for developing those clinical practice guidelines used in research and best practices available?

**Dr. Bob Bell:** Absolutely. There's certainly tremendous talent in Ontario in developing best practice guidelines, and the role of the quality council in interpreting which should be applied and which are most effective to be applied is very appropriate.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to Mr. Chudleigh.

**Mr. Ted Chudleigh:** Dr. Bell, do you see this bill as helping to control health care costs at all?

**Dr. Bob Bell:** I think that any time we improve quality, we contain health care costs and improve sustainability. So yes, I'd certainly say this is a step forward in sustainability.

**Mr. Ted Chudleigh:** I don't think that has been true in the past, but we have hope for the future, I suppose.

**Dr. Bob Bell:** Thank you. Yes, we do.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Dr. Bell, for your presentation, and also to Karen Michell, thank you.



## CANCER CARE ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next deputation, which is Cancer Care Ontario.

**Dr. Terrence Sullivan:** Good afternoon.

**The Chair (Mr. Lorenzo Berardinetti):** Good afternoon. Welcome.

**Dr. Terrence Sullivan:** Thank you. Thanks for this opportunity to speak with you. You should have all received a copy of our presentation. My name is Terry Sullivan and I'm the president of Cancer Care Ontario. This is my colleague Dr. Carol Sawka. Dr. Sawka is head of our clinical programs and a medical oncologist by background. Both Dr. Sawka and I have appropriate university appointments, as detailed in the background material. I might also add that Dr. Sawka actually provides the executive support to the quality guidelines and standards committee of the board of Cancer Care Ontario.

Let me start by saying that Cancer Care Ontario fully supports the government's Bill 46 and its embedded objectives of advancing quality in the health care sector and holding executive management accountable for its achievement within their individual health care organizations. We believe that, with modest adjustments, the legislative amendments in Bill 46 will assist health care organizations to advance a stronger quality committee in the province on behalf of our patients. In our own work, we are committed to driving a quality agenda across the cancer system within Ontario based on the same principles of transparency, accountability and the adoption of best practice.

Just a very brief background on what we are doing as an agency: We are the provincial agency that steers and directs Ontario's cancer services and prevention efforts so that fewer people get cancer and patients are able to avail themselves of the highest quality health care. We do this by acting as a contractor for in excess of \$700 million for cancer services. Those dollars are tied to data, quality, access and volumes in the cancer sector, and we report completely and fully on an annual basis, in a public way, about how we're doing with respect to cancer services.

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We also operate screening and prevention programs and we have a very large range of activities using electronic information to support health care professionals and organizations to improve the safety, quality, accessibility and accountability for our cancer services. In this regard, Cancer Care Ontario also leads the access-to-care portfolio, which includes all of the data collected on wait times within Ontario, including cancer and non-cancer areas, and extending now to emergency room data.

We also plan services to meet current and future patient needs and work with providers in every LHIN. We promote measurable and accountable cancer care by measuring and reporting to the public about the performance of cancer services on a regional basis, and we work with doctors, hospitals and other health care practitioners to ensure continuous performance. Finally, we are the government's chief adviser on cancer-related issues.

In the last year, we've also taken on a role to advance improvements in the management of chronic kidney disease, through the Ontario Renal Network, and we're just in the initial stages of building out that capacity as an organization.

Let me tell you briefly what we are doing with respect to the quality agenda, and then I'll jump to our recommendations.

Our program in evidence-based care, which operates out of McMaster University, works to improve the quality of care for patients through the development and dissemination of evidence-based practice guidelines serving disease site group leaders for cancer in specialty care areas like breast and colon at each of the disease sites across Ontario. They continuously scan, filter, summarize and publish guidance standards for professionals, with practice leaders in Ontario leading the field.

In a world of just-in-time information, we need machinery of this type to be able to determine what are the best treatments available to patients, and also to advise clinicians on moving in a just-in-time fashion to new and better treatments as they become available.

In addition, this same body advises Ontario on how to fund and schedule drugs in the Ontario drug formulary. Through the new drug funding program at Cancer Care Ontario, we advise the provincial government on which drugs should be funded, what their benefits are, which are cost-effective. The program of evidence-based care is an important resource for this entire operation.

We are working, in short, at every step of the cancer journey to collect, disclose and improve quality of care in the areas of pathology, surgery, diagnostic services, radiation, treatment and palliative care. This morning we saw the release of the annual cancer statistics. In the last few years we have built a network of palliative care provision, and we collect and report on symptoms in palliative patients across Ontario now to improve the management of their pain and distress.

Finally, we report annually, as I mentioned, through the Cancer Quality Council of Ontario on 30-plus quality and performance indicators. That release will actually occur this time next week. This is a Web-based report in which you can go and look at where Ontario sits, region by region, on a whole set of measures for performance on quality.

Let me turn, then, to the recommendations that we're proposing today.

We wholeheartedly support quality committees initially within every hospital and subsequently within other publicly funded health care organizations subject to Bill 46. We believe that in order for quality committees to be successful in carrying out their responsibilities, the membership must include at least one senior clinical practice leader within the organization and at least one person with expertise in quality improvement, including the measurement of quality indicators within their organizations.

We support, within the inclusion of subsection 3(3), which directs a hospital-based quality committee, that at



least one senior clinical practice leader from within the organization be present and that at least one person with expertise in quality improvement, including the measurement of quality indicators, be present.

With respect to annual quality improvement plans, section 8, we support the requirement that health care organizations develop annual quality improvement plans and make these available to the public, as outlined in section 8.

Bearing in mind Dr. Bell's previous injunction about not one size fits all, we believe that the principles of transparency and accountability would require that the Ontario Health Quality Council actually work with the sector to develop a minimum data set and begin to capture and report annually across the sector on how we're doing, hospital by hospital; and maybe some hospitals would enrich that data set, but at least we'd have one comparable picture across the sector on how we're doing from a system level and allow for meaningful comparisons between and among different organizations.

Our recommendations:

—that section 8 be amended to provide that health care organizations provide their annual quality improvement plan to the council in a format to be established, which permits province-wide comparisons in reporting on a minimum set;

—that section 12, which sets out the function of the council, be amended to provide that the council, in consultation with organizations with experience in the development of indicators, develop a minimum set of quality indicators to be used by health care organizations in their annual quality improvement plans;

—that section 12 be amended to provide that the council be mandated to develop an annual report on system performance based on the information provided in such annual plans; and

—that section 13 be amended to provide that in its annual report to the minister on the state of health care in Ontario, the council include recommendations regarding improved system performance.

CCO also supports in principle the addition of the following function to the council's mandate as set out in clause 12(1)(c), namely,

“(c) to promote health care supported by best available evidence by,

“(i) making recommendations to health care organizations and other entities in the system respecting clinical practice guidelines and protocols; and

“(ii) making recommendations to the minister concerning the government of Ontario's provision of funding for health care services and medical devices” based on such evidence.

CCO believes the council membership, as reflected in subsections 10(3) and 10(6), probably needs to be augmented given the new mandate of the council to ensure a sufficient range of competency to carry out its expanded mandate. We recommend, therefore:

—that subsection 10(3) be amended to suggest that in appointing members of the board, regard will be had to

the desirability of persons with expertise in the development and implementation of clinical practice guidelines and protocols and persons with expertise in quality improvement, including expertise in the measurement of quality indicators;

—that clause 10(3)(d) be amended to provide that, in appointing the members to the council, regard should be had to the desirability of appointing persons from the community with a demonstrated history of interest and experience in health service and clinical service evaluation; and finally,

—that subsection 10(6) be amended to clarify that former members of the board and former chief executive officers of the system may be a member of a council, such that we have a presence of people who are entirely familiar with the routine operations of organizations within the sector.

We note that it's slightly unclear in the wording of 12(1)(c) whether the council is to support the development of practice guidelines or work with other health care organizations and develop them directly. We support a role for the council in the development of clinical practice guidelines in consultation with other organizations with substantive experience in such development to ensure no duplication of effort.

In conclusion, the staff and board of Cancer Care Ontario welcome the arrival of Bill 46 and look forward to working with the Ministry of Health and Long-Term Care and our partners in the hospital and community sector to advance the quality agenda in respect of cancer control and chronic disease management. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Dr. Sullivan. We have about a minute per party. We'll start with the Liberal Party: Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you for your presentation and thanks for being with us today. Based on your comments, am I to interpret overall that you see cancer patients receiving better service in the health care system if this bill is implemented in a proper fashion?

**Dr. Terrence Sullivan:** I certainly do. I think there are many ways in which the bill will cause a common and a higher standard to be advanced, which is our objective as an organization.

**Mr. Bas Balkissoon:** The only reason I raise this question is that during second reading debate, the quality committees in the hospitals—the issue was raised that these things already exist, but from your experience, do they exist in every hospital today?

**Dr. Terrence Sullivan:** I can't speak with authority about how they function in every hospital, and they work quite differently from hospital to hospital across the sector.

**Mr. Bas Balkissoon:** So you would agree, then, that the bill, in putting these committees in place and then the regulations to direct how they function across the entire system, is a good direction to go in?

**Dr. Terrence Sullivan:** Absolutely.

**Mr. Bas Balkissoon:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move to the PC party. Mr. Chudleigh.



**Mr. Ted Chudleigh:** Thank you for being here, Doctor. You started out talking about some of the research and treatment practices that are being done in various hospitals and how best practices are passed from hospital to hospital. How long does it take for a new treatment like that or a new concoction or whatever to become implemented in the system? You mentioned the word “publish,” and that says to me there’s a long delay.

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**Dr. Terrence Sullivan:** Every June at the American Society of Clinical Oncology a big flight of trials are dropped, and Dr. Sawka will explain briefly what happens from there.

**Dr. Carol Sawka:** Our program in evidence-based care has a process that rapidly reviews evidence in a systematic way, converts those into guidelines and then disseminates them to all of the practitioners in the province. The publication is generally on our website, and later, in journals. The intention is for rapid dissemination of the evidence. For treatments that are extremely compelling, there is a very good process in place to make those treatments available as quickly as possible. In the case for Herceptin, for example, the treatment was made available within a matter of six weeks.

**Mr. Ted Chudleigh:** Otherwise, if you wait for the publication date, it could be a year?

**Dr. Carol Sawka:** It could be up to a year, but the evidence that is being used is submitted for wide practitioner feedback to ensure that there’s endorsement across the jurisdiction, across the province. So this information is actually out in the clinical domain very quickly. The publication is not required for a practice change to occur.

**The Chair (Mr. Lorenzo Berardinetti):** We have to move on because of the time to Ms. Gélinas of the NDP, if you have any questions.

**M<sup>me</sup> France Gélinas:** Very quickly: I was curious, on page 5 of the document we have you say, “CCO supports in principle the addition of the following function to the council’s mandate as set out ...” and then you say, “to promote health care that is supported by the best available scientific evidence by ... making recommendations to health care organizations and other entities in the health” care system. Who did you have in mind by those other entities?

**Dr. Terrence Sullivan:** They’re to be enumerated, but they would include home care organizations; they might even include family health teams, for example.

**M<sup>me</sup> France Gélinas:** So you really see it as broad.

**Dr. Terrence Sullivan:** Yes.

**M<sup>me</sup> France Gélinas:** I think we’re out of time. Thank you for coming.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

#### COLLEGE OF CHIROPRACTORS OF ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** We’ll move on now to our 3 o’clock deputation, which is the College

of Chiropractors of Ontario. Good afternoon, and welcome.

**Mr. Joel Friedman:** Good afternoon. My name is Joel Friedman and I’m the director of policy and research at the college of chiropractors. I apologize; there is no written submission at this time. I’m not a chiropractor but a lawyer by training.

The College of Chiropractors of Ontario, or CCO, is the regulatory body for approximately 3,900 chiropractors in Ontario. CCO’s mandate is to regulate the chiropractic profession in the public interest. CCO registers chiropractors in Ontario and develops standards of practice to which the profession must conform. The public interest mandate is exercised through two arms of the college, that is, the complaints and discipline processes and the quality assurance processes.

The complaints and discipline processes protect members of the public by disciplining chiropractors who are guilty of professional misconduct or are incompetent to practice, while the quality assurance process aims to continuously improve the competencies of chiropractors through programs like continuing education, self-assessment, and peer and practice assessment.

Just by way of background, chiropractors are primary health care providers who assess, diagnose and treat dysfunctions and disorders of the spine, nervous system and joints. Chiropractors use a variety of diagnostic tools such as X-rays to provide this diagnosis.

Chiropractors work in a variety of health care settings, including private clinics, multidisciplinary clinics, rehabilitation facilities and hospitals, and collaborate with other health care professionals such as physicians and physiotherapists.

As a professional regulator, CCO strongly supports the mandate of Bill 46. CCO believes that the health care system must be centred on the needs and choices of the patient. An accessible, appropriate, effective and collaborative system is essential to a high-quality health care system. As well, it is essential that patients be able to access high-quality health care, no matter what health care setting or facility they are in.

My comments specific to Bill 46 will be very brief and relate specifically to the functions of the quality council under section 12.

CCO supports the bill’s focus on the Ontario Health Quality Council. The council’s mandate of monitoring and reporting to the people of Ontario on access to health care services, health human resources and health systems outcomes is in the public interest and consistent with the mandate of CCO.

CCO supports this patient-centred system that will address the essential issue of access to care and strongly believes that central to the health care system is a patient’s right to choose and access the health care provider of their choice, no matter what the setting.

One of CCO’s mandates under the Regulated Health Professions Act is to promote and enhance inter-professional collaboration among health care providers within the entire health care system, both private and public.



CCO strongly supports the quality improvement initiatives of Bill 46 of the quality council in the hospital setting and looks forward to when the initiatives of the quality council would be expanded to other health care settings and sectors across Ontario that will be enumerated in the regulations and guidelines of this bill.

As well, CCO recognizes the importance of monitoring and reporting on health human resources in the health care system in the context of improving efficiencies and improving access to care within the entire health care system.

CCO, like all other health regulatory bodies, is involved in the health professions database in Ontario, which is a comprehensive database of health practitioner information aiming to improve health human resources planning in Ontario. CCO recognizes and supports health human resources planning. It is an essential component of operating an effective, efficient and accessible health care system.

CCO strongly supports the quality council's initiatives of promoting health care that is supported by best available scientific evidence. Chiropractors in Ontario utilize a wide variety of evidence-based assessments and treatments in providing care within their scope of practice. Upon this point, CCO recognizes the importance of the development of clinical practice guidelines as part of the quality council, and has actually been a partner in the development of such guidelines in the chiropractic profession for several years. As well, CCO understands that such guidelines must be presented to health care professionals in a practitioner-friendly manner and be relevant to clinical practice. Guidelines, as well, need not be profession-specific and may apply to different health care professions with similar scopes of practice across different health care settings.

An example of a past guideline that CCO has been a part of is the guideline on adult neck pain not due to whiplash, which was published in 2005. This guideline has provided chiropractors throughout Canada with important guidance in this area, including a patient handout, clinical decision algorithm and cervical spine manipulative therapy decision algorithm, all elements that are practitioner-friendly and relevant to clinical practice.

As well, CCO has partnered with the Chiropractic Professional Association, the Ontario Chiropractic Association and the educational institution, the Canadian Memorial Chiropractic College, along with the Institute for Work and Health, to facilitate the use and dissemination of clinical practice guidelines by chiropractors in Ontario.

From these points, CCO applauds the quality council's focus on the development and integration of clinical practice guidelines and protocols within hospitals and, again, looks forward to the extension of these guidelines across other health care sectors that will be enumerated in regulations and guidelines.

Finally, CCO supports the council's mandate of seeking advice from the public in doing its work. The

mandate of CCO is to regulate the chiropractic profession in the public interest and strongly believes that health care must be patient-centred and respond to the needs and choices of the public. It is the position of CCO that members of the public have an opportunity to dictate and access the health care provider of their choice in a variety of health care settings.

In conclusion, CCO supports all of the mandates of the quality council and is excited to see it start in the hospital setting and disseminate into other health care settings in the regulations and guidelines.

Thank you for allowing CCO to speak today, and I'm available for any questions at this time.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Friedman. We have a couple of minutes per party. We'll start with the Conservative party. Mr. Chudleigh?

**Mr. Ted Chudleigh:** No questions.

**The Chair (Mr. Lorenzo Berardinetti):** No? Okay, we'll move on to Ms. Gélinas of the NDP.

**M<sup>me</sup> France Gélinas:** Thank you very much for coming, Mr. Friedman.

We had a presentation this morning from the association, and I would say that both the college and the association seem to be singing from the same songbook, as far as I could understand. I wanted to ask you: What would be some of the consequences of not moving forward with the suggestions that you are making in this committee today?

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**Mr. Joel Friedman:** Well, it would definitely be in the public interest to have these quality councils work, from a chiropractics perspective, not only in hospital settings but across all health care settings. Whether that's accomplished in the current bill or regulations and guidelines is a different issue, but it would definitely be in the public interest to have consistency among all health care settings. That consistency among different health care providers is definitely an important factor for the college in protecting the public interest.

**M<sup>me</sup> France Gélinas:** Would you have a preference whether the changes be made in the bill or in regulations?

**Mr. Joel Friedman:** The college doesn't have a specific position on that, just that it would be in the public interest for these initiatives to apply to all settings at this time.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to Mr. Balkissoon.

**Mr. Bas Balkissoon:** I don't have any questions. I just want to say thanks for coming forward and presenting to us today.

**Mr. Joel Friedman:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

MS. PATRICIA FORSDYKE

**The Chair (Mr. Lorenzo Berardinetti):** We're a few minutes early, but our 3:15 p.m. deputation is listed as



Patricia Forsdyke. I hope I pronounced that properly. Good afternoon and welcome.

**Ms. Patricia Forsdyke:** Good afternoon. Thank you for having me. I'm probably going to speak against the act. I know I'm going to.

I think I'll read what I have, but I'll just make a preface. I have a knee-jerk reaction to this bill, which is, why would you spend more and more money and time policing the system when, really, some of the bits of the system need kick-starting and need more money allocated to them? Obviously, I'm coming from a certain perspective, and I don't see that the area that I'm coming from is going to benefit at all from this at this particular time. Anyway, I think I'll read what I've put. I decided not to read it, and then I decided I would because everybody's saying the opposite to what I believe.

I speak as a private citizen and not for any group. I have spent a lot of time, I would add, on masses of boards and masses of committees over the last 30 years. I just have a gut feeling that this is more of the same. I was a nurse by training. I spent almost 30 years advocating on behalf of the seriously mentally ill, and continue to do so. Last year, I gave an oral and written presentation to the Select Committee on Mental Health and Addictions, and I've put the web pages that I have below. It's actually a Queen's site, but I'm not at Queen's. It's my husband's site.

The reason I came is that I noticed this advertisement in the paper this week announcing public hearings, that they would follow in three days. That was a bit of a shock. To my astonishment, I realized that there was little time to study the bill. I have looked at some of the debates in the Legislature on this bill, and it would seem that I am not alone in my concerns. I did know of the issue of CEO bonuses being linked to performance. This was reported in our local newspaper, the Whig-Standard. I can only say that when I read the bill, it sounds a little bit Orwellian or Kafkaesque: It's another layer, it seems to me.

It seems to me that more and more committee work would not necessarily lead to better health care delivery. It also struck me that this bill was being rushed through the Legislature at lightning speed and is full of bureaucratic talk. The usual phrases that come out, they're quite decent things, but my problem is always, how can you deliver certain things? It seems to me neither realistic nor profound. Since it interlocks with other pieces of legislation, it should be scrutinized carefully. Many MPPs were given little time to come to grips with it, I understand, when it came to the floor.

"Excellent care for all" sounds like utopia, but is it really deliverable? In the area that I am familiar with, this proclamation seems utter nonsense. Presently, the seriously mentally ill are lodging on the streets or in cockroach-infested rooming houses, and psychiatric beds are now in abundance in the prisons, where there is little care for mental illness. The reality on the ground, with fiscal restraints dictating all circumstances, is that it really does seem pie in the sky to me.

In order to improve this situation, it will take more properly trained professionals; an amendment to the Mental Health Act along the lines suggested by Dr. Gray to the select committee, which addresses the nature of serious mental illness; and recognition of the lack of insight that is characteristic of this patient population and why treatments need to commence promptly.

The proposed quality committees sound highly suspect to me. My hunch is that we will see more circular committees at a time when Rome is burning in this particular area. I see it all the time with the LHINs: Nothing is being fixed there, and there's not the kind of representation I would like to see at the LHINs on serious mental illness.

The legislation will lead to more useless surveys, and the bureaucrats will make—I'm sorry to be rude to bureaucrats. We need them, but basically what comes out of the surveys, obviously, sometimes reflects what they want for the outcome. In current parlance, we will have more bean counters and less money spent where it is needed: direct patient care.

The CEOs should receive decent salaries, but it seems quite an extraordinary stretch to believe that they will work harder if they are given more money. Making this equation seems to me folly. There is also the question of bureaucrats who are working under the CEOs. The disparity in salaries may lead to some resentment and be counterproductive. The Premier of this province is poor by comparison to some of the salaries that the CEOs gain.

As for the bonus for performance, I view this as highly suspect. Good, honest work is surely the objective. Wall Street fiascos on the bonuses surely have taught us something on this matter.

We have ample examples of this in the mental health field. There are hardly any beds. Because there are so few, these are not used as beneficially or wisely as one would like. Compassion has evaporated, and budgeting to the bottom is the order of the day, leaving much tragedy and suffering in its wake. This, in the long run, is short-sighted, and I believe it's expensive. It's just being transferred to another system: the courts and the prisons.

This is just because I've been on various committees and a lot of these forum things: I note that the black boxes in the system do not make it easy to be open and transparent. I know that the information is there, but actually getting that information to the right people is sometimes difficult. These two words are fairly meaningless in the scheme of things. We live in a time when the Ombudsman, when receiving a complaint, has little access to the relevant information. At least, this is what I've been told.

Is health care nothing but a pack of cards, smoke and mirrors, signifying nothing, while the bureaucracy creates more and more power for itself? I'm very critical. I'm sorry, but I have to say it the way I see it.

Is health care dancing to the tune of ideologies? It certainly is in mental health, mental illness. For example, in another area, some self-appointed patient groups



believe they have the holy grail of wisdom. I put the wellness brigade under this heading. Such groups are often able to influence the LHIN activities quite substantially.

What is a quality committee? I assume that hospitals have quality committees already. A quality committee is just another layer, it seems to me, in this whole scheme. Again, it seems a little Orwellian of Kafkaesque. Surely professionals should have more say in health care decisions. I would add the professions are already regulated. You can bring complaints to those professions, to the hospitals and to the system.

Not everything is fixable, but the best outcomes are often commensurate with the skill of the professional. In the land of the blind, the one-eyed man sees furthest. These are often those who are trained and actually deliver the services. Is this another attempt to muzzle hospitals and let the community organizations tell of their exaggerated achievements? By the way, I was told that by someone; that's why I put it in.

1520

The LHINs are part of the problem. Certainly, I think they're part of the problem in the mental illness section. Hospitals may be whipped into cost-cutting, to the advantage of some of the agencies who deliver services, but the cost may be too high for patients. The bill seems utopian, and utopia explored can lead rapidly to dystopia.

This legislation, in my view, is unnecessary. I've heard some things today that could persuade me, but they're not in the areas that I know most about. Bear in mind that I do know a fair bit about the whole hospital setup.

So that is it. I did note one of the things that someone else said—how many minutes do I have?

**The Chair (Mr. Lorenzo Berardinetti):** Five minutes.

**Ms. Patricia Forsdyke:** "One size does not fit all": I would echo that.

Leading by the right example, to me, seems like a very good way of doing things. On the whole, I do feel that you have to be mindful of what money is in the pot, and whether this is going to be another exercise in which you spend more money and achieve what's already being achieved in certain areas. There are clearly very big faults in some places, but it seems that some people are doing a good job, and they should be encouraged to continue doing it.

**The Chair (Mr. Lorenzo Berardinetti):** We have about three or four minutes left for questions. We'll start with the NDP. France Gélinas?

**M<sup>me</sup> France Gélinas:** I want to thank you very much, Ms. Forsdyke, for coming. I understand the passion you bring to mental health and the seriously mentally ill, and how we are failing this population group, and to say that an excellent care for the seriously mentally ill act would be a huge—it's utopian. It's not happening. I can fully understand that if I put on the lens that you look at this bill through, I would be just as unhappy as you are.

This bill is not targeted at bringing excellent care to people who are seriously mentally ill. So I will ask you:

If you were to make one, two or however many suggestions as to how we can bring excellent care to the seriously mentally ill, what would you say?

**Ms. Patricia Forsdyke:** First of all, I would say that you've got to put some—not too many—but you have to put some beds back in the system, because the beds, as I said, are in the prisons. I think it's reasonable to assume that early interception brings a better outcome. I don't believe that the incidence is going up of serious mental illness, but I do believe that we're going to have more chronic people with major mental illness; I'm talking about the two high-incidence ones—schizophrenia and manic depression. I do believe that those people are going to need more services in the system because they're not getting services up front. I would want more trained professionals and I would really want to put some emphasis on the medical schools. They've got to not neglect this population. I said it all in my submission, really.

**M<sup>me</sup> France Gélinas:** That's okay, but is there—

**Ms. Patricia Forsdyke:** I want the money spent on them, rather than—

**M<sup>me</sup> France Gélinas:** I understand that, too.

You've seen that there's quite a bit of support for this bill from some of the big players in the field, so I'm telling you that this bill will go through. Are there amendments or changes we could do that would mean that the seriously mentally ill are not left behind, that they are part of this excellent care for all? Are there steps to salvage this bill so that it means something to seriously mentally ill Ontarians?

**Ms. Patricia Forsdyke:** I don't know that I think that there are steps that can be taken. It may benefit the ones who are receiving services at the moment, because there are some checks and balances in the system, but it won't remedy what I'm talking about: the overflow that's elsewhere and outside of the health care system. So I'm not very optimistic; I just felt I had to come. The title of it, really, was something that bothered me.

**M<sup>me</sup> France Gélinas:** I appreciate that you came. I will look through it and try to see if I can come up with anything so that the seriously mentally ill are part of excellent care for all.

**The Chair (Mr. Lorenzo Berardinetti):** I'm just going to move on to questions from the Liberal Party and Ms. Sandals.

**Mrs. Liz Sandals:** Yes, and thank you very much for coming. As you mentioned, we have had a chance to chat before, at the Select Committee on Mental Health and Addictions. I'm just wondering if this were applying to psychiatric hospitals as well, and I believe it does, that—

**Ms. Patricia Forsdyke:** I assumed it did, as well as acute care.

**Mrs. Liz Sandals:** So would the notion of the quality control council and looking at provincial standards of care—would that be helpful, from your point of view, when you get into the treatment of seriously mentally ill patients?

**Ms. Patricia Forsdyke:** Yes, but you see, I think the system has been so withered down now that what you're



looking at is just the remnants of a system rather than what people need up front to access top-quality care. Deinstitutionalization, in my view, has been a total shambles. It's not that it had to be the way it used to be, because there are better treatments; they're not perfect. But I'm very skeptical at this point that you can rush in with a bill like this and benefit—obviously, the monitors have to be there, and through complaints they have to be there.

Thinking about what you just said, one of the things that is problematic to me with the seriously mentally ill who have no insight is that we're saying "patient-centred," "patient-this"—that's not really the way that the problem is answered at all, because if you're that ill and you have no insight, you're not going to want what the system needs to give you.

**Mrs. Liz Sandals:** It's okay. The three of us that are on the select committee noted your suggestions on page 2. We're hearing this through a different filter, but your comments have been heard.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the Conservatives. Mr. Chudleigh.

**Mr. Ted Chudleigh:** Thank you for coming today. You're the only contrary voice in the proceedings—

**Ms. Patricia Forsdyke:** I am at home, too.

**Mr. Ted Chudleigh:** —it's always welcome to hear. I used to think the same thing when I was on the government side.

I'm wondering if you had an opinion as to where this started or how we can solve the problem. It seems that almost every cost that is involved in the hospital sector is twice what it is anywhere else. If you're buying a piece of equipment in an operating room, the cost of a drill, the cost of whatever, is two or three times what it would cost in any other place. The CEOs' salaries are twice what they are in any other discipline. If you look at a CAO in charge of a large municipality, they'll be handling about the same amount of money as a hospital would handle, they have a much more diverse area of expertise and yet they get paid, in general, less than half of what a hospital CEO makes.

If you go to the other end of the scale, the cleaning and maintenance staff generally have contracts that are twice what is paid in the private sector, as do the food workers who deliver the food to the wrong room in the hospital; they get paid about twice what other people outside the hospital would get paid, a lot of the time. I always got the wrong food when I was there.

Any idea as to how that happened or any way to solve those problems in health care? This is driving our health care costs to the point that getting the money to the patient is getting very difficult. I think that's your concern, if I hear you right. You want the money spent on the patient.

**Ms. Patricia Forsdyke:** I want the money spent on the patient. I want the money spent on the professional training and delivery of systems. I think that's not cheap. In the area that I'm talking about, it's very expensive, and they're not doing it properly. In my view, it's

because they've downsized too quickly and they've listened to ideological stuff. Now we've got: "One in five people have a mental illness." That's stretching it, as far as I'm concerned. We have mental troubles—

**Mr. Ted Chudleigh:** I'm just checking the room. I'm wondering if one in five is right.

**Ms. Patricia Forsdyke:** I'm waffling now, but I really think that you've got to spend money on the patient and on delivering services that will at least stabilize them so they can avail themselves of other services.

1530

Serious mental illness is a long time. It doesn't come on at 50; it comes on in the prime of life. You've got all those years in which to deliver, and if you don't do right at the beginning—and that's where the money should be spent, and then some support services afterwards.

By the way, many of the people with serious mental illnesses whom I know have not needed much follow-up, apart from seeing their psychiatrist and two years seeing a psychologist to help them manage their system. They're not dependent on the system once the medication is working. They may be taken into hospital in another acute episode, but it's cost-effective to do it front-end and not picking up the mess.

I suspect that sooner or later, the system is going to wake up and they're going to have to open more chronic beds.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, we've reached the time limit—

**Ms. Patricia Forsdyke:** In Kingston, it's a nightmare walking down the street at the moment. I'm very compassionate, but I don't like walking around somebody who's hallucinating.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much. We have your notes as well. Thank you for your presentation.

## ONTARIO MEDICAL ASSOCIATION

**The Chair (Mr. Lorenzo Berardinetti):** We're now moving on to our 3:30 presentation from the Ontario Medical Association. If you'd like to come forward, please. Good afternoon, and welcome.

**Dr. Mark MacLeod:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** You know the format. It's 15 minutes to present. Any time that's not used during that 15 minutes is shared amongst the parties in asking questions.

**Dr. Mark MacLeod:** Thank you very much, Mr. Chair and members of the committee. Thank you for agreeing to allow the Ontario Medical Association to make a presentation to you today. My name is Mark MacLeod and I am the recently installed president of the Ontario Medical Association.

The OMA, as you know, is the professional association for the province's 2,500 physicians. I am an orthopedic surgeon in London, Ontario. I have a practice that is exclusively in a hospital. I have a sub-specialized



practice in foot and ankle surgery and the management of adult orthopedic trauma.

First of all, let me begin by saying that the OMA supports the government's efforts to rebalance our system to require hospital boards and administrators to actively consider and attend to the quality of health care with the diligence that they devote to the fiscal stewardship of the institution. Health care delivery in today's system is simply too complex to continue to rely exclusively upon individual practitioners doing their best. We need a systemic approach to quality that is led by the board that effectively harnesses and values the input of physicians and other health care providers. The OMA supports the government's attempt to place patients and patient experience at the centre of the system.

The OMA notes that the preamble of Bill 46 describes the elements of a high-quality health care system and it uses eight of the nine attributes described by the Ontario Health Quality Council in its vision for the system. The OHQC talks about the need for the system to be appropriately resourced, where Bill 46 merely says the system should be "appropriate." Given that resourcing can be a major driver of quality or a significant inhibitor of quality, the OMA believes that it is important for the government's quality agenda to fully and accurately reflect the OHQC values. We recommend that Bill 46 be amended to acknowledge that the system needs to be appropriately resourced.

The government is not placed at any risk by this amendment since the legislation requires the OHQC to take into account implications for the health system resources when making its recommendations to the minister about funding. It also clearly states that the government is not obligated to act upon the advice of the OHQC.

Most stakeholders have considered Bill 46 as it applies to hospitals, and most of the requirements seem reasonable. However, given that the reach of Bill 46 is clearly intended to extend to other sorts of health care organizations, we need to examine the impact of certain obligations. The OMA wonders whether it will be administratively feasible for small organizations to conduct both a patient and staff survey every year and then effectively translate that information into a quality plan which they then must act upon.

The OMA recommends that the act be amended to allow surveys to be completed every other year, or perhaps to stagger the requirements so that the patient survey and staff survey are done on alternating years. The annual quality plan would then be refreshed annually, using updated information as it becomes available.

We also question the capacity of smaller organizations to be able to consult the public regarding their declaration of patient values. We recommend that this provision be amended to require health care organizations to consult with their patients and families, and then to make the information available to the public.

The OMA notes that the mandate of the OHQC is expanded so that they will make recommendations to

health care organizations about clinical practice guidelines and protocols. Local quality committees will then be required to translate best practice guidelines into information that is distributed to health care providers, and the committee will monitor the use of these materials.

Although it appears that the intent of this provision is to allow some adaptation at the local level, the OMA is concerned about the capacity of smaller hospitals and non-hospital organizations to undertake this very significant task. Our experience, through several years of partnership with the government on the Guidelines Advisory Committee, has demonstrated to us that development of guidelines and the subsequent knowledge transfer are very resource- and labour-intensive activities.

In addition to questions about the feasibility of local adaptation and dissemination of guidelines, the OMA has concerns about the provisions stating that the quality committee of the hospitals will monitor the use of such guidelines. The whole point of guidelines versus practice standards is that they are just that: advice that must be capable of being modified based on clinical circumstances. The OMA does not believe that the quality committee should judge practice at the level of individual clinicians.

We recommend that Bill 46 be amended so that the quality committee shall refer queries regarding individuals' compliance with best practice guidelines to the appropriate clinical leader for review and action, if warranted. Clinical leaders should then be required to report back to the quality committee on the outcome of their reviews.

The last matter that the OMA would like to comment upon relates to the provisions tying executive compensation to performance. While we support this notion in theory, we are troubled by the lack of detail provided in the legislation. Virtually everything about this scheme is left to regulation, with little opportunity for input. We ask that the government formally commit to a consultative process that goes beyond the mandatory 30-day posting and input process. This represents a major policy decision and should be fully discussed in advance of implementation.

In closing, Mr. Chair and members of the committee, I would like to thank you for the opportunity to be heard, and I applaud the government's initiative to improve the quality of our health care system for patients. Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have just under six minutes. This time, we'll start the rotation with the Liberal Party. There are two minutes per party. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you for your presentation. I just want to go back to one of your questions. It said that you "question the capacity of smaller organizations to be able to consult" with "the public," but you recommend that these organizations consult with patients and families. I'm struggling to understand the difference. Can you give me a further explanation?



**Dr. Mark MacLeod:** Small organizations, obviously, will have direct care and direct contact with their patients and the families of those patients. We think it's a relatively easy thing for them to regain or gain information from those groups as patients transit through the system. It may not be logistically as feasible for small organizations to do a broad consultative process with the public at large. That's our only point.

**Mr. Bas Balkissoon:** Okay; thanks very much.

**The Chair (Mr. Lorenzo Berardinetti):** On to the PC Party. Mr. Chudleigh.

**Mr. Ted Chudleigh:** I was interested to see that you're a foot and ankle specialist. I have a twisted ankle. Maybe you could have a look at it later. It has been giving me some problems over the last couple of days.

**The Chair (Mr. Lorenzo Berardinetti):** That'll take up your two minutes if you do that.

1540

**Mr. Ted Chudleigh:** Do I have to work that into my two minutes?

**The Chair (Mr. Lorenzo Berardinetti):** Yes.

**Mr. Ted Chudleigh:** Do you see this piece of legislation as driving costs or controlling costs?

**Dr. Mark MacLeod:** Ultimately, if we improve the quality of the care that we're currently providing, we should reduce costs. If we can improve the quality of the care that we currently deliver, we should be able to do things like reduce readmission rates and reduce serious errors. Those types of things ultimately will benefit both patients and the system. So I think of it more as, rather than costs, an addition of value. I think improving the value of the current system should be something that we all strive for.

**Mr. Ted Chudleigh:** We heard earlier from Dr. Bell that much of what's proposed in this legislation is already being done in the University Health Network. Would the same be true in London? You're a teaching hospital as well.

**Dr. Mark MacLeod:** I think many of the academic hospitals have started to move in this direction already. This bill does present some new takes on some of that work. The addition of the quality council in the hospital is a distinct change. But I think the idea of looking at quality and reporting on quality is something that physicians and hospital administrators have been working on together on many fronts, and the medical advisory committee has, to this point in time, worked closely with administrations on quality issues specifically.

So I don't think this is new. I think this is a new slant on it and it places a larger emphasis on it within an organizational structure and operations, but it's certainly not new, and it's not new from a physician's perspective in delivering quality care.

**Mr. Ted Chudleigh:** Certainly the areas that it will drive, cost-wise—first of all, the quality committee: There will be a cost associated with that. Hopefully a small cost, but it's a new cost, and of course that's not patient-driven; it's money coming out of the patient system and going to bureaucratic spending. Hopefully

there will be a payback on that if the system operates properly, but many of the hospitals are doing that now in a perhaps less formal but perhaps less expensive way too.

I wonder about this bill formalizing some of those costs; whether there's going to be any real change other than allowing CEOs an opportunity to drive their salaries. I would make anyone a bet who wants to make a bet that the CEO salaries will increase by 15% or 20% over the next five years because of this bill.

**Dr. Mark MacLeod:** With respect to the outcomes, yes, undoubtedly there will be an increased administrative cost. Physicians have historically been very conscious of the rising administrative burden of delivering health care. However, if an outcome, per se, of this would be that we could reduce hospital-acquired pneumonias or ventilator-acquired pneumonias in a hospital—that's a very expensive additional expense to the system. If those are the kinds of things that we can prevent by having a quality council, then I think we are more than likely to make up the cost.

Having said that, we need to be very conscious of how much it costs to deliver health care in all segments of health care delivery, not just at the local level but throughout the system. It's a big bundle of money—

**The Chair (Mr. Lorenzo Berardinetti):** We need to move on. It's almost time for the next deputation. Ms. Gélinas for the NDP?

**M<sup>me</sup> France Gélinas:** I wanted to congratulate you, Dr. MacLeod, on your installation as the new president of the Ontario Medical Association, and thank you for coming to Queen's Park.

**Dr. Mark MacLeod:** Thank you.

**M<sup>me</sup> France Gélinas:** You made some good arguments, and you almost have me convinced about the "every other day for small." I don't want to put words in your mouth, but if we were to have two sets of rules, one applying to all of the hospitals except the ones that belong to the small hospitals group, so the hospitals will have to do their two surveys and the annual plan, but if you are smaller—and then we define what "small" means by number of people, size of budget etc.—then we would go to every other year, with a plan every year, but one year you do the survey of the staff—would you agree to that?

**Dr. Mark MacLeod:** That's an interesting thought, and it's one that we hadn't collectively thought of. I think it would require some discussion with hospitals, first of all, to find out what "small" would mean and just exactly how many resources they would have to devote to doing this survey, so that we could have an idea of who would be really caught having to take a chunk of money from patient care to do this work. I think it requires a little bit more exploration with the hospitals, sure. A two-level plan might not be a bad idea. I'm surprised to hear that today I almost have you convinced. It's better than my last record.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you—

**M<sup>me</sup> France Gélinas:** One more?



**The Chair (Mr. Lorenzo Berardinetti):** Okay.

**M<sup>me</sup> France G  linas:** When you talk about the consultation process that you want, I agree with you fully that everything left to regulation makes this process not transparent at all. Do you have more specifics as to what would be an acceptable consultation process before the regulations are drafted and the 30-day mandatory thing happens?

**Dr. Mark MacLeod:** Well, it's a very complicated piece of legislation. I don't think I have enough experience to say it should be this amount of time, but I think there are so many factors at play here. We do need to have an adequate consultation period on the regulations before we move it into the implementation phase. For complex problems, there's a simple solution and it's always wrong. I think, in a matter that's this complex, it behooves us all to be very careful about how we go forward so that we don't end up with unintended consequences that affect patients, cost the system money and make us all look like we didn't do our thinking up front. I think we can work together on that.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much for your presentation.

**Dr. Mark MacLeod:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** And thank you for coming here today.

MR. DAVID SMITH

**The Chair (Mr. Lorenzo Berardinetti):** Our next presenter is David Smith. Good afternoon, and welcome.

**Mr. David Smith:** Good afternoon. Thank you for the invitation to be here today. Mr. Chairman and ladies and gentlemen, before I even introduce myself, let me sound a contrarian note right off the bat. I believe that, as currently drafted, Bill 46 holds out the potential for becoming really part of the problem instead of part of the solution.

Having said that, let me go on and introduce myself, and I'll come back to that point.

I make these submissions today as a life-long resident of Ontario who has experienced Ontario's health care systems over the years and has followed the longstanding struggle to provide publicly funded, quality health care. Most recently, my exposure to Ontario's so-called mental health system, through a family member's involvement in that system, has given rise to me becoming involved with the newly-formed family council at Ontario Shores Centre for Mental Health Sciences in Whitby. I appear today, however, in my individual capacity and not as a member of that council.

In years gone by, I have personally lived the experience of receiving treatment in our local general hospital where I began to learn first-hand of the unmet need for integrated and patient-centred health care in Ontario. In addition, my experience has included advocating for and supporting my now 92-year-old mother as she has been so often challenged in navigating a health care system

which I have come to conclude is far from being integrated and far from being patient-centred.

While I had been somewhat aware of the Bill 46 initiative, it was only just this past Monday that today's hearings came to my attention, so it has been a very steep learning curve since Monday.

**1550**

From my quick reading of the bill, it became quickly apparent to me that I might have some thoughts to offer the committee as it considers Bill 46, the purpose of which—that is, the purpose of the bill—presumably is to promote and further the provision of high-quality care in the province of Ontario.

It's against that background that I've developed the following thoughts and some proposed amendments to Bill 46, amendments of which—suggested amendments—I have provided copies to the committees, for indeed—and I'll just ad lib here a bit—that's where the rubber hits the road. We can talk all we like and wax poetic about who we are and what we like and all that sort of thing, but you're here to consider a piece of legislation. The rubber hits the road in the wording of that legislation, so I ask us to look at and turn our attention to the question of whether or not the legislation is going to do what we want it to do.

I start from the premise that Bill 46 provides the opportunity to move from proselytizing to action in our desire for a cost-effective, high-quality health care system. In particular, I see Bill 46 as an opportunity to demand more of our health care organizations than simply the vacuous compilation of so-called data and, frankly, propaganda, which so often is the result of our organizations' reviews and ongoing commitments to quality.

I see Bill 46 as a vehicle of change through which Ontario may truly move towards higher-quality health care that is integrated, patient-centred and cost-effective. If Bill 46 is to perform that role, however, you will need, in my opinion, to move the sentiments of the bill's preamble into the very body of the legislation so as to move us from plaintively hoping for change to actually providing for and demanding that change.

Again, as currently drafted, the bill, I fear, holds out the possibility of becoming part of the problem as opposed to part of the solution, and I'll touch on that again a little later.

If, after Bill 46's laudable preamble, the actual legislative provisions require nothing more than the consumption of resources in the production of more self-serving eye-wash reports, we will have failed to use Bill 46 as an opportunity to actually procure change.

Our health care organizations must be held accountable for providing high-quality care. The committee needs to appreciate that the time has come to actually move our health care organizations into providing integrated and patient-centred care.

We must demand, through Bill 46, that health care organizations operate as part of our broader health care systems and our communities. They must be held



accountable for operating in an integrated way, with all parts of the system and the community. Health care organization administrators must be held accountable for providing high-quality, cost-effective health care.

We must put the patient at the centre of health care. Patient-centred health care is not just about spending or not spending money, it's not about having or not having the latest and greatest technology and it's not about settling for care, using whatever resources are left over after ever-expanding administrations have taken their cut of the funding.

It is with the above thoughts in mind that I've drafted my proposed amendments to Bill 46, submitted herewith.

Before I go to those in a couple of minutes, I'd like to ad lib a bit and pick up on a couple of thoughts that came to mind as I listened to the previous speakers.

The concept of quality is too often reduced to quantifiable measurements. "You can't improve what you can't measure," we heard today. That's often the refrain. But what constitutes measurement? Surely, measurement isn't restricted to counting, e.g. critical incidents, deaths etc.

I've taken the measure of today's weather and the temperature. I couldn't tell you what it is in actual degrees; I don't have a thermometer, but I've taken the measure of it. I know it's warm; I know it's humid. I don't have a barometer; I know the pressure is, I think, fairly low. So I can measure, and measurement doesn't necessarily reduce always to things you can quantify. I'll just leave that point with you. Unfortunately, I think that if we reduce our notion of quality to merely those things that you can quantify in that fashion and count, we'll never get to quality. It does us a disservice in our understanding of quality and what we demand of the system.

If I could take just a couple of minutes to look at the suggestions that I've made—and you have copies of that, hopefully—the actual red-lined changes that I've suggested to the bill. I will highlight in the preamble, again, the notion that the government wishes to "recognize that a high quality health care system is one that is accessible, appropriate, effective, efficient, equitable, integrated, patient-centred." What I'm saying is, take that stuff out of the preamble, put it into the body of the bill and start building quality accountability into the actual bill. Otherwise, it will simply get reduced to the bean counting.

I would then go so far as to add a purpose to the bill up front, which I have provided you with. Then I would have a definition of high-quality health care in the interpretation section for reference to later on.

I would suggest "The purpose of this act is to promote, and further the provision of, high-quality health care in the province of Ontario."

I would say under "Responsibility of health care organizations" in section 2, "every health care organization shall"—and I've added the following—"continuously strive to improve the quality of care provided by it in the interest of providing high quality care in concert with the broader health care systems in communities of which

it is a part." Again, the integration, the notion of building the requirement and the call upon these organizations to provide high-quality health care are part of the legislative requirements.

I don't think I need to go on and run through all the suggested amendments. They were put together quickly—I hope, thoughtfully. I hope that you will consider them. On that note, thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Smith. That pretty well uses up your time. Thank you for your presentation. We have your package here that you presented.

## ONTARIO HOSPITAL ASSOCIATION

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our 4 o'clock deputation, which is the Ontario Hospital Association. Good afternoon, and welcome.

**Mr. Tom Closson:** Good afternoon. Shall I begin?

**The Chair (Mr. Lorenzo Berardinetti):** Yes. Please identify yourself. The process is, you have 15 minutes, and any time that you don't use of that 15 is shared among the committee to ask you questions.

**Mr. Tom Closson:** Thank you very much. Good afternoon. My name is Tom Closson, and I'm the president and CEO of the Ontario Hospital Association.

I want to begin by saying that the OHA strongly supports Bill 46. Ontario is home to the most efficient, transparent and accountable hospitals in Canada. We all recognize, though, that the public expects even more. If passed, Bill 46 would reflect their expectations by mandating that certain activities that are currently in place in many hospitals be extended to all hospitals and by providing needed clarity regarding quality improvement obligations of health care professionals and leaders. However, we believe that certain aspects of Bill 46 warrant some additional consideration by this committee.

### 1600

Bill 46 requires hospitals to conduct annual surveys of patients, their caregivers, and hospital staff. The OHA supports the concept of surveying patients and staff. In fact, 70% of hospitals currently utilize standardized surveys to measure patient satisfaction on a voluntary basis, at a cost of about \$3 million per year. Generally speaking, only smaller facilities don't gauge patient satisfaction in this way, mostly for reasons of cost and administrative burden. Approximately 35% to 40% of hospitals currently measure staff satisfaction. Again, the OHA recognizes the value of staff surveys, and we actively promote their use. That said, there are issues related to surveying patients and staff that legislators should consider.

First, it will be important that relevant regulations clearly define the patient and caregiver population to be surveyed and that consideration be given to challenges and costs inherent in surveying special patient populations like mental health patients as well as individuals for whom English is not a first language.



Second, we must recognize that expanding patient, caregiver and staff surveying will cost money. Each patient satisfaction survey costs \$8.50—this is what's paid to the survey company—a survey for a single mental health patient can cost as much as \$70 or more, and staff surveys cost approximately \$11 each. These costs are in addition to the associated administrative costs to the hospital. If you applied this across all patients, their caregivers, and all hospital staff, these costs can be very significant, especially for smaller facilities. Therefore, we strongly recommend continuing the current practice of surveying a statistically-valid representative sample of patient, caregiver and staff populations, rather than adopting a blanket approach.

We also recommend that Bill 46 be amended to require that hospitals survey their staff on a biannual rather than annual basis. This would give hospitals the ability to collect the data from staff, fully implement any changes, and then measure the effect of those changes before they're surveyed again. We strongly encourage legislators to amend Bill 46 in that way.

As you know, Bill 46 would tie the compensation of certain hospital executives to the achievement of performance targets set out in a hospital's quality implementation plan. Clarity is needed regarding who, in addition to hospital CEOs, would be captured by this provision, and we expect to work with the government on regulations in this regard.

Further, given the freeze on non-union employee compensation introduced as a result of Bill 16, individuals whose current contracts do not include performance-based compensation schemes would have their compensation effectively reduced. While the OHA fully supports and promotes the use of performance-based compensation, it is important that this model be implemented fairly and in a way that does not cause undue harm to employee pensions. We recommend that the government give very careful consideration to the legal and practical effects of this provision in Bill 46 before it's implemented.

As you are aware, Bill 46 would provide the legal framework within which the quality committees, patient and staff surveys, declarations of values, quality improvement plans and performance-based compensation would be created. It is to their great credit that the Ministry of Health and Long-Term Care chose to draft Bill 46 as a framework, avoiding being prescriptive in the legislation, and left many of the associated operational details to be implemented through regulation and by way of policy.

I would also like to thank ministry civil servants for their openness and willingness to consult with stakeholders during the development of Bill 46. Their efforts were appreciated, and we look forward to working with them in the weeks and months ahead.

Should it be approved by the Legislature, Bill 46's effectiveness will largely depend upon its associated regulations. Currently, the minister has the authority to set out most regulations associated with Bill 46 without

consultation. Given their potential impact on hospitals and the broader health care system, we recommend that section 15 of Bill 46 be amended so that consultation take place on each regulation. We believe that public consultation on Bill 46's regulations can only improve its effectiveness.

I would like to note that the government has already adopted related regulations that are obviously not part of but are associated with Bill 46, the most prominent of which is an amendment to regulation 965 under the Public Hospitals Act. This amendment prohibits appointed staff, including physicians, or any hospital employee, including the CEO, from being voting members of the board, but allows them to sit as *ex officio* members.

In our opinion, this is completely consistent with the Auditor General's recommendations regarding the promotion of skills-based hospital boards; advice from multiple, independent governance experts; and the recommendations of a review of the Public Hospitals Act that was done in the early 1990s. This will give hospitals the flexibility to ensure that their board is comprised of individuals who have the skills, competencies, experience and independence needed to execute their roles and responsibilities. As such, this regulation has our full support.

This morning, Ontario's Information and Privacy Commissioner suggested that Bill 46 be amended to extend freedom-of-information laws to Ontario's hospital sector immediately. As you know, the OHA called for hospitals to be brought under the freedom-of-information umbrella last year, and that remains our position. However, we do not believe that Bill 46 is the appropriate vehicle for this purpose.

The government has promised in its throne speech that the Public Hospitals Act, the primary law governing hospitals, will be reviewed. It has been widely acknowledged that specific exemptions and amendments will be needed to take into account the unique circumstances of the hospital setting and that great care and consideration will be needed to ensure that hospitals are adequately supported through this transition in terms of implementing freedom of information. For these reasons, we believe that a stand-alone bill, written with reference to the Public Hospitals Act review and fully considered by all relevant parties, is the appropriate way forward. Frankly, this issue is too important for a back-of-the-envelope approach.

These and other issues will be discussed in more detail in the OHA's written submission, which will be provided to the committee next week.

I'll conclude by reiterating that the OHA supports Bill 46, and we look forward to working with the Minister of Health and Long-Term Care to implement it effectively if it is passed by the Legislature. With that, I'd like to thank members of the committee for your time, and I'd be happy to answer any questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about two minutes per party, and we'll start with the Conservative Party this time. Ms. Elliott?



**Mrs. Christine Elliott:** Thank you very much, Mr. Closson, for coming and presenting today.

I did have a question just in noting that the OHA will be providing written submissions next week. Will you be providing specific amendments that you're asking the committee to consider?

**Mr. Tom Closson:** We'll be giving more detail about the kinds of things, but not legal language. Perhaps we'll be giving some legal language.

**Mrs. Christine Elliott:** All right.

**Mr. Tom Closson:** We will now.

**Mrs. Christine Elliott:** That would be very helpful, if you could. Thank you.

**Mr. Tom Closson:** We'll focus on that, yes.

**Mrs. Christine Elliott:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll go to the NDP. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Thank you for coming, Dr. Closson.

**Mr. Tom Closson:** I'm not a doctor, remember?

**M<sup>me</sup> France Gélinas:** I keep forgetting.

I certainly appreciate the fact that you have quantified how much it costs to do well-done patient and staff surveys. You're not the first presenter who talks about alternate years, where one year you would do the client survey or—are you suggesting that, no matter the size of the hospital, we should be going to every second year?

**Mr. Tom Closson:** For staff-satisfaction surveys or staff-engagement surveys because—I've worked in a lot of hospitals. By the time you do the survey, you analyze the results and you work with staff to make the change, if you were then to do another survey before you made any change, they become quite cynical. This isn't even really a cost issue; it's more—you've got to show progress. So every two years makes sense for staff surveys.

For patient surveys, we would suggest it be done on a continuous basis, but done on a sampling basis so you sample a certain percentage. That's what we do right now. About 104 of the 154 hospitals are collecting patient satisfaction data, using a standardized form. We would just like to keep it on a sampling basis so that it doesn't become overly expensive, and you'll get the same information you need to be able to make changes.

**M<sup>me</sup> France Gélinas:** If we are able to bring some amendments, what specific type of consultation would you like to see before some of the regulations—I agree with you that this bill is a framework, so there's very little in it. It will be in regulations. What type of consultation are you hoping for or would you like to see?

**Mr. Tom Closson:** We're not suggesting that we're the only people who should be having input on the regulations, but normally, if there were regulations proposed, we'd take them out to our membership very quickly and get their feedback.

One of the things is that we have hospitals in this province that have budgets of \$5 million and we have hospitals that have budgets of \$1.5 billion. There's such a huge difference in their ability to implement changes, so it's really important that we hear from particularly the

smaller hospitals and rural and northern communities to make sure that we've got this right in terms of the regulations.

**M<sup>me</sup> France Gélinas:** I notice that you didn't comment at all on the notion of patient-centred care. Is there a reason for that?

**Mr. Tom Closson:** No, not at all. Certainly, the patient satisfaction surveys that we've been doing have tried to get at, "Are we providing care to patients in a patient-centred way?" One of the big issues here, though, is not just what goes on in the hospital; it's the continuity across the continuum.

We've recently established a partnership with the Ontario Association of Community Care Access Centres. We're looking at how we can actually look at patient flow into the hospital and out of the hospital and look at the patient experience across sectors. I think that's something else that needs to be looked at as we move forward.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll go to the Liberal party. Mr. Balkissoon?

**Mr. Bas Balkissoon:** Mr. Closson, thank you for coming.

The Information and Privacy Commissioner was here this morning, and she seemed to imply that hospitals are ready for FOI and it should be something that could be implemented without any resource implications. She indicated this too by saying that she had been in constant contact with the OHA and the ministry. Would you agree with that statement, or do you have some reservations?

**Mr. Tom Closson:** If you remember, we came forward and suggested that hospitals be subject to freedom of information. We subsequently had discussions with the privacy commissioner and with the ministry, but there has not been a lot of detailed work done since that time. If you look at Bill 197, which was the privacy legislation for colleges and universities, it's five pages long. What the privacy commissioner brought forward to you today is two lines, and we actually believe hospitals are more complicated than colleges and universities when it comes to privacy because we're dealing with patient information and all sorts of other things.

So we want to sit down with the Ministry of Health and the privacy commissioner and really work through this in some detail. We do believe that the more appropriate legislation is attached to the Public Hospitals Act changes. The government has already indicated they want to do a review of the Public Hospitals Act, and we'd like to do the work on freedom of information as part of that review.

**Mr. Bas Balkissoon:** Have you had discussions with the privacy commissioner and the ministry in a collaborative way to make this move forward?

**Mr. Tom Closson:** We had initial discussions with them a number of months back, and I've talked to the privacy commissioner within the last 48 hours as well.

**Mr. Bas Balkissoon:** Okay. Is there a commitment by all parties to make this happen?



**Mr. Tom Closson:** I can only speak—certainly, I guess the privacy commissioner spoke for herself. You'd have to ask the Ministry of Health. But there certainly is from the Ontario Hospital Association.

**Mr. Bas Balkissoon:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

That completes deputations for today. For the committee's information, administrative deadlines for amendments are due by 12 noon on Thursday, May 27, and this committee will go through this bill clause by clause on Thursday, June 3, starting at 9 a.m.

The committee now stands adjourned. Thank you.

*The committee adjourned at 1613.*







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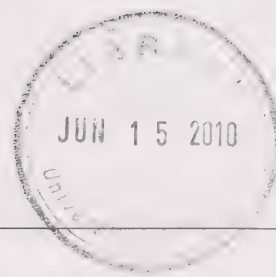


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## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 1 June 2010

# Journal des débats (Hansard)

Mardi 1<sup>er</sup> juin 2010

## Standing Committee on Justice Policy

Excellent Care for All Act, 2010

## Comité permanent de la justice

Loi de 2010 sur l'excellence  
des soins pour tous



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Tuesday 1 June 2010

Mardi 1<sup>er</sup> juin 2010*The committee met at 1606 in committee room 1.*EXCELLENT CARE FOR ALL ACT, 2010  
LOI DE 2010 SUR L'EXCELLENCE  
DES SOINS POUR TOUS

Consideration of Bill 46, An Act respecting the care provided by health care organizations / Projet de loi 46, Loi relative aux soins fournis par les organismes de soins de santé.

**The Chair (Mr. Lorenzo Berardinetti):** Good afternoon, everybody. I'd like to call this meeting to order. This is a meeting of the justice policy committee, and we're here to consider clause-by-clause amendments. I'll just read out the name of the bill: Bill 46, An Act respecting the care provided by health care organizations, moved by the Honourable Minister Matthews.

Are there any comments, questions or amendments to any section of the bill, and if so, to which section? We'll start with the package that we all have in front of—you should all have a package. The very first motion is an NDP motion on the first page. I'll let Ms. Gélinas speak to it. First, read it into the record and then you can comment on it.

**M<sup>me</sup> France Gélinas:** I move that clause (b) of the definition of "health care organization" in section 1 of the bill be amended by striking out "that is provided for in the regulations and that."

If you follow in section 1 and you go to (b), you can see that if you take out that part of the sentence, you would make sure that this bill, which is trying to bring about quality as a motivator for change—it is quite explicit that it would apply to hospitals, but this way it makes it more explicit that it will apply to all health care organizations and not just hospitals. By this, I do not mean that it all has to happen now. I have no problem with starting out the implementation within the hospital sector and rolling it out to other parts of our health care system as the time comes. But it is my feeling that if we were to remove this section from the definition, it would be more inclusive to every part of the health care system that stands to benefit by having a quality lens applied to the work and the care that they provide.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government can't support this motion because the motion would mean that the

legislation would apply immediately to all publicly funded health care organizations. Our approach is to deal with the hospitals first and then extend the requirements to the other health sectors, as we stated during previous debates. We would prefer to work with all our partners in the health care sector and then extend the legislation to the other sectors in a reasonable and staged approach as we gain experience.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Then can I ask for legislative counsel to counsel this committee as to—I agree with what he says. We're both saying the same thing: Start with hospitals and extend it when the government sees fit. How can we ensure that the language that is in the bill is doing what he just said?

**Ms. Catherine Macnaughton:** I think the provision as it reads currently in the bill provides that, over time, the government can prescribe more entities that will be included within the definition of "health care organization." By using the regulation mechanism, that's how it can be phased in. If the words in your motion in the definition are taken out, then all organizations that receive public funding—it's not even limited to health care organizations. It says that "any other organization that receives public funding" is going to be a health care organization.

**M<sup>me</sup> France Gélinas:** Okay. So the way it is now, we have that the government can prescribe that it applies to others. I don't think this is what he said. What he said is that it does apply; they will just do it in steps. So what kind of language could we put in there so that what he's saying is reflected in this? Right now, the government can prescribe, which also means that it could state that it is limited to hospitals if they don't prescribe it any further. What kind of language could we put in that would mean that, in due time, other health care organizations will also be covered?

**Ms. Catherine Macnaughton:** You'd have to do that by phasing them in directly in the bill by putting an amendment for each one stating when it would apply to it, or you do it with the flexibility of a regulation.

**M<sup>me</sup> France Gélinas:** So can the amendment, then, read—

**Ms. Catherine Macnaughton:** I think you're too late to make further amendments at this point because there was a deadline for filing amendments set by the House.



You'd have to have the House amend the motion setting the deadline.

**M<sup>me</sup> France Gélinas:** Okay. Can I make a change to my amendment?

**Ms. Catherine Macnaughton:** The House would have to change the deadline for filing motions because the deadline of 1 o'clock today was set by the Legislature.

**M<sup>me</sup> France Gélinas:** Can I ask for unanimous consent to make a word change?

**Ms. Catherine Macnaughton:** Unfortunately, no. The committee can't overrule the House's deadline. Only the House can change the deadline.

**The Chair (Mr. Lorenzo Berardinetti):** That's why we were there last night until so late.

**M<sup>me</sup> France Gélinas:** I've been on committees before where, with unanimous consent, we have made changes to the wording—

**The Chair (Mr. Lorenzo Berardinetti):** This is a time-allocated bill.

**Ms. Catherine Macnaughton:** This is a time-allocated bill, and that means that the deadline for filing motions to amend was set by the Legislature. That's what's called a hard deadline. Anything that's filed after that or any changes to any motions that have been filed can't be made without the House extending the deadline. It would have to be by a motion in the House to do that.

**M<sup>me</sup> France Gélinas:** So that means that even if we have unanimous consent to change the wording—even if we've made a typo or mistake in what we've submitted—we're stuck with this?

**Ms. Catherine Macnaughton:** Typos, to some extent, we can correct editorially within our office, but not changing the wording of the content and the meaning of the amendment, no.

**M<sup>me</sup> France Gélinas:** Because it was a time-allocated—

**Ms. Catherine Macnaughton:** Because of the time allocation motion, and that the House set a hard deadline by what time motions had to be filed today. So we can't even change the motions as filed. At this point, they either live or die; they pass or they don't pass.

**M<sup>me</sup> France Gélinas:** All right. So we both agree as to what we want to do. The bill has it that it can pre-empt, which is not what Bas was saying. They won't happen—

**Ms. Catherine Macnaughton:** The usual mechanism for phasing in when you don't know exactly who you want to bring in and when would be when the government has made its arrangements with the particular entities. They would then do the regulation at that point. As I understand it, you wish to speak to the particular entities and line up the timing. In that case, because your timing is unknown at this point, this would be the usual mechanism for doing it. When they're ready to go, they'd make the regulation to include the particular type of entity.

**M<sup>me</sup> France Gélinas:** But there's nothing that would force them to make to make sure that they include CCACs or they include anything else but the hospitals.

**Ms. Catherine Macnaughton:** There's nothing in this bill that would do that, no.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Further debate or discussion? We'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

We go to page 1(a)(i), the second page of the package. It's a PC motion. Ms. Elliott, if you want to read it into the record.

**Mrs. Christine Elliott:** I move that clause (b) of the definition of "health care organization" in section 1 of the bill be struck out and the following substituted:

"(b) any other organization that receives public funding and provides health care."

This is a variation on the amendment that was just presented by my colleague Ms. Gélinas at the request of the RNAO. Again, it's been suggested so that it applies to all health care organizations and not just public hospitals, as the legislation currently provides for. The problem with the legislation as drafted is that if the regulations are never changed, then it's never going to apply to anything other than a public hospital, and that is not the only organization which, we would submit, should be subject to this type of scrutiny. That's why we brought it forward.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government can't support this motion. It's similar to the one previous; in fact, it's much more broad and much more problematic. It may catch organizations that just simply receive funding for some form of health care service, and it could be very problematic, so we cannot support it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? I'll take a vote, then. Oh, I'm sorry. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** I don't understand the comments that he just made. He said that it could include—

**Mr. Bas Balkissoon:** It says, "any ... organization that receives public funding."

**M<sup>me</sup> France Gélinas:** —"and provides health care."

**Mr. Bas Balkissoon:** Yes. "Health care" could be interpreted to be anything that is related to the health care system, and we see that as problematic. We prefer to do the regulations sector by sector and implemented so there's better rollout in our minds. We would work with our partners out there so that they understand what the government is doing. I would say that the government has acted in good faith so far, so that's the way we want to go.

**M<sup>me</sup> France Gélinas:** I would ask legislative counsel again—Bas just said that "provides health care" could be interpreted to mean anything. If we have in the bill the amendment that Christine has just brought forward—"any other organization that receives public funding and



provides health care”: In your legal opinion, could this be interpreted as meaning anything?

**Ms. Catherine Macnaughton:** The words would have to speak for themselves. It would have to be some organization that provides health care.

**M<sup>me</sup> France Gélinas:** The intention of this bill is excellent care for all. It means that any organization that provides health care should come under this quality lens that we want to put forward, so I don’t understand why you’re turning this down.

**Mr. Bas Balkissoon:** Again, Mr. Chair, just a comment. We’re rolling this out in hospitals. We want to work with the other sectors, and we’ll roll it out later to them; we’ll do that through regulations. We believe that that’s a better way to manage the system.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. That’s his answer. Ms. Elliott?

**Mrs. Christine Elliott:** Just a final comment. The problem, then, is that it’s just acting on good faith, that we have to trust—no disrespect intended, but if it’s intended to apply to all health care organizations, the bill itself should say so. That’s all we’re suggesting.

**M<sup>me</sup> France Gélinas:** I’d like to echo her comments a little bit. I haven’t been here very long, and I’ve had to work with three different Ministers of Health. Every Minister of Health brings their own set of skills and vision for his or her ministry, but only the laws stay behind once the minister is gone. What Bas is saying right now is something I think we all support: You start with the hospital and you roll it out to the other parts of the health care system.

The bill right now is really hospital-centric. You say that you want to do this. I think we have a better motion than mine with the PC motion, which is more specific about public funding; I understand that it could be too broad, but now we’ve really narrowed it down. We’ve asked legislative counsel, who says, “Yes, if it says ‘provides health care’ then it’s health care; it’s not anything else.”

You want to do this. Why don’t you want to put it in writing?

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Any further discussion?

**M<sup>me</sup> France Gélinas:** I don’t get an answer?

**The Chair (Mr. Lorenzo Berardinetti):** If he wants to; he doesn’t have to. There’s no rule that he has to answer. I think he has given his answer.

We’ll put it to a vote, the motion in front of us. All those in favour of the motion? Opposed? It does not carry.

That completes section 1, so I’ll put the question forward: Shall section 1 carry? All those in favour? Opposed? It carries.

1620

Section 1.1: We have a motion. It’s an NDP motion. Ms. Gélinas—I think it’s on page 3; the third page of amendments—you moved section 1.1?

**M<sup>me</sup> France Gélinas:** That’s right.

**The Chair (Mr. Lorenzo Berardinetti):** Will you read that into the record, and then you can explain it?

**M<sup>me</sup> France Gélinas:** Sure. I move that the bill be amended by adding the following section:

“Exclusion

“1.1 Despite anything in this act or the regulations, a patient-based payment model shall not be considered for small, rural or northern community hospitals.”

This is a point that I have brought forward a number of times. The Minister of Health is on record herself, and members of the government are on record themselves, that they are not going to be using a one-size-fits-all model, and that the reform of the hospitals could be devastating to the small, northern and rural hospitals, and that the patient-based payment model would not apply to them.

All I’m trying to do here is to get it in writing. We have a minister, right now, who has said that the patient-based payment model will not apply to small, rural and northern community hospitals. I think this is wise. We know very little as to what the patient-based payment model will look like in Ontario. We have quite a bit of scientific evidence from other jurisdictions that have put forward payment models that are called patient-based payment models, and they have been devastating to the small and rural hospitals in their jurisdictions. We have a Minister of Health who agrees with this and is on the record as saying that this won’t be applied to small, rural and northern hospitals. I think it would bring a sigh of relief from northern, small and rural hospitals if they could see it in writing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Elliott.

**Mrs. Christine Elliott:** I would certainly support Ms. Gélinas’s motion on this. I think it is really important that it be spelled out in the legislation, if that is the intention of the government that this model not be applicable to small, rural and northern hospitals—that it be clearly spelled out. I would definitely support this for greater clarity.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government can’t support this motion. The bill does not contain any reference to a patient-based payment model. One of the key principles of patient-based payment is that the payment will acknowledge hospitals and their unique roles, particularly hospitals serving small or rural communities. The ministry’s intent is to consult with all the stakeholders in the coming years and consider recommendations at that point in time from the rural and northern health care panel. Based on that information, we’ll proceed. This is like throwing it out before you’ve given it consideration, so we’re not prepared to support it at this time.

**M<sup>me</sup> France Gélinas:** I would say that there are elements of the patient-based payment model that are in the bill. The entire section about CEO compensation that is to be tied to—it is certainly part and parcel of what patient-based payment models have looked like in other



jurisdictions. To have Mr. Balkissoon say that it's something that is not in the bill—it is in the bill under the section of executive compensation. To me, it would be wise to have it in the opening section if this is the intent of the government.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? I'll put it to a vote. All those in favour of the motion? Opposed? It does not carry.

We'll go to the next page. It still has to do with section 1.1. It's an NDP motion. Ms. Gélinas, if you want to read the motion.

**M<sup>me</sup> France Gélinas:** I move that the bill be amended by adding the following section:

“Full competencies

“1.1 Every health care organization is responsible for ensuring that its health care providers practise to their full competencies.”

This is a serious issue for a number of health care practitioners who, depending on the location of their employment, get to work within their full scope of practice or their scope of practice gets limited. We have an opportunity to amend the hospitals act right now. I think it would be wise, if we want the people of Ontario to have access to the full scope of practice our different health care professionals have to offer, that we take this opportunity to do this, to obligate all health care organizations to ensure that all providers can practise within their full competency. I think that for a number of relatively newer professionals, it is a huge issue. I think about midwives; I think about nurse practitioners, who are recently—they're decades old, but they're still considered newer professions. It would be a good opportunity to make sure that people in Ontario have access to the full range of services they provide.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government can't support this motion because we believe the amendment is outside the intended scope of Bill 46. Everyone will remember we just dealt with Bill 179, which actually dealt with scope of practice of the many professionals who are in the health care system. Those included were nurse practitioners, pharmacists, midwives and others. We see hospitals as corporations on their own, and we must leave it within their corporations to handle the concern that Ms. Gélinas has raised.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I would like to ask legal counsel if this recommendation is really outside the scope of Bill 46.

**The Chair (Mr. Lorenzo Berardinetti):** You're talking about your amendment here on page 1(c)?

**M<sup>me</sup> France Gélinas:** Correct. It's section 1.1, full competencies. Mr. Balkissoon says that he considers the amendment being outside of the scope of Bill 46, and I want to have legal counsel on that.

**Ms. Catherine Macnaughton:** I think there's an argument that it is.

**M<sup>me</sup> France Gélinas:** Which is?

**Ms. Catherine Macnaughton:** It doesn't deal with any of the particular areas that are already dealt with in the bill: with the quality improvement plans or with patient relations. There are various areas that are covered in the bill, and this seems to be borderline at best.

**M<sup>me</sup> France Gélinas:** How come it wasn't ruled out of order, then?

**Ms. Catherine Macnaughton:** Because it's borderline, I think the clerk was giving you some leeway.

**M<sup>me</sup> France Gélinas:** You don't see the link between bringing in quality and competency?

**Ms. Catherine Macnaughton:** It's not for me to say. It would be the government's decision whether or not to accept your motion.

**M<sup>me</sup> France Gélinas:** Okay. My second point would be that the government tells hospitals a whole lot what they can and cannot do. Through this bill, we will tell them to have a patient bill of rights, we will tell them to have a set of values, we will tell them a whole lot of things, but you want to leave it to the individual corporations to talk about competency. Why are some elements of quality important and other elements of quality you will leave to the individual corporations? Where do you draw that line?

**The Chair (Mr. Lorenzo Berardinetti):** Are you asking Mr. Balkissoon that question?

**M<sup>me</sup> France Gélinas:** Yes, he's the one who told me that—

**Mr. Bas Balkissoon:** I've already made comments on the government's position, so I don't know what else I can say.

**M<sup>me</sup> France Gélinas:** You could explain to me where you draw the line as to things that every hospital corporation will have to do and things that you leave to the individual corporations to do when we're talking about quality, which is what this bill is all about.

**Mr. Bas Balkissoon:** The member has her own interpretation. As I said, we see hospitals as independent corporations on their own, and we give them the flexibility to manage their operations and make these kinds of decisions. We don't want to see it done centrally from the government itself.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on this NDP motion. All those in favour of this motion? Opposed? That doesn't carry.

1630

The next page is a PC motion. It's regarding section 1.1. Ms. Elliott, if you want to read the motion.

**Mrs. Christine Elliott:** I move that the bill be amended by adding the following section:

“Freedom of Information and Protection of Privacy Act

“1.1 The following hospitals are deemed to be institutions within the meaning of and for the purposes of the Freedom of Information and Protection of Privacy Act:

“1. Every hospital within the meaning of the Public Hospitals Act.



"2. Every private hospital within the meaning of the Private Hospitals Act that receives public funding."

**The Chair (Mr. Lorenzo Berardinetti):** If I could just interject for a second. As Chair, I'm going to rule that this motion goes outside the scope of the bill in front of us. It's opening up another act, and while it does open up another act, through unanimous consent we can consider this, because you're trying to address the Freedom of Information and Protection of Privacy Act, which is different than the act in front of us today. Before you go further, I'm going to ask if we have unanimous consent to deal with this motion or not.

**Mr. Bas Balkissoon:** No, Mr. Chair.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no there. I'm going to have to rule it out of order.

We'll move on. That ends section 1.1. We'll move on to the next motion, which is an NDP motion on page 1(d) regarding section 2. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that section 2 of the bill be amended by adding the following subsection:

"Same

"(2) Every health care organization shall ensure that the method by which its board is appointed is transparent, democratic, and representative of the demographic profile of its community."

I think that what this amendment tries to do is to mandate that the appointment of every health care organization's board be of high quality. This is a bill that focuses on bringing a quality lens, first and foremost, to hospitals, but hopefully soon after to every part of our health care system. What this amendment will do is look at the level of the board and put into the bill elements to ensure quality at the level of governance.

The governance of the transfer payment agencies of the Ministry of Health are an extremely important part. They set the tone. They set the critical path that the organizations will take.

If you're serious that you want quality to happen within your hospital, you have to set up the structure that governs that hospital to be of high quality. How do you do this? You do this by putting into law a mandatory, transparent, democratic and representative process to get your board of directors, which will set up the governance of our hospitals.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate or discussion?

**Mr. Bas Balkissoon:** The government won't be supporting this motion. As I stated before, we view hospitals as independent corporations, and the manner in which their boards are appointed is subject to various requirements today, such as their individual corporate bylaws and the Public Hospitals Act.

The government has made a commitment in a throne speech to review the Public Hospitals Act, and if this is the way the community and the public wants to go, we think that would be the right place to do it.

But if I could make a personal comment, because we went through a hospital restructuring in our own area. You don't necessarily want to look at the demographic

profile to get people from the community. You want to look at, in my mind, the appropriate skills of the people who are on the board, that they could serve a corporation of this nature.

We can't support this motion at all.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Any further discussion?

**Mrs. Christine Elliott:** I would certainly support this amendment. In fact, I have a variation of this also that I wish to present. But the principle remains the same. This was suggested by the Registered Nurses' Association of Ontario, and I think that it's incumbent on every board to use an open, transparent and democratic process in order to elect the board members. I can't imagine that any part of it should be objectionable to any board of directors.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France Gélinas:** The comment that was made by Mr. Balkissoon—one does not preclude the other. Certainly, you need the members on your board of directors to bring forward a set of skills, but that skill set can be attained through a transparent and democratic process. I can't think of a board of any transfer payment agency of any ministry in Ontario that would take offence to this, and that applies to our health care organizations as well. In health care, you deal with people. You should include the demographic profiles of the people you serve, as well as have the skill set. One does not preclude the other.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None. So we'll take a vote on the motion. All those in favour of the motion? Opposed? That does not carry.

That completes section 2. I'll put the question forward: Shall section 2 carry? All those in favour? Opposed? Carried.

We'll move to the next amendment, which deals with section 2.1. It's an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that the bill be amended by adding the following section:

"Fiscal advisory committees

"2.1 Where a regulation under the Public Hospitals Act obliges a health care organization that is a public hospital to have a fiscal advisory committee, the minister shall ensure that that obligation is enforced."

**The Chair (Mr. Lorenzo Berardinetti):** If I can just interject, I'm going to have to rule the same thing. Because you mention the Public Hospitals Act here, this motion is outside the scope of the bill, so it's out of order.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** If you want to ask for unanimous consent: Do we have—

**M<sup>me</sup> France Gélinas:** No. I'm just making reference to that bill. The Public Hospitals Act already tells you that you need to have a fiscal advisory committee. I want this bill to basically make sure that the minister enforces what's in the Public Hospitals Act.



**The Chair (Mr. Lorenzo Berardinetti):** I still believe it's outside the scope of the bill. We can ask legislative counsel if they have any comment on it, but this addresses something outside the scope of what we're dealing with in the bill in front of us today.

**M<sup>me</sup> France G  linas:** Could we have legislative counsel?

**Ms Catherine Macnaughton:** If you want to enforce the provision, then it would have to be enforced under the Public Hospitals Act because that's the act that gives it the authority to have the requirement for the fiscal advisory committee. It would have to be an amendment to the Public Hospitals Act, usually, or whatever their enforcement mechanism is in that act. It's raising an issue that's outside the scope of the bill by talking about fiscal advisory committees, which aren't mentioned in the bill anywhere. So I can see where the Chair would find this outside the scope of the bill.

**M<sup>me</sup> France G  linas:** Can I ask for unanimous consent?

**The Chair (Mr. Lorenzo Berardinetti):** Do we have unanimous consent to deal with this?

**Mr. Bas Balkissoon:** No, Mr. Chair.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no there. So that's out of order, then.

We'll move on to the next motion. It's a PC motion on page 1(e)(i). Ms. Elliott.

**Mrs. Christine Elliott:** I move that the bill be amended by adding the following section:

"Board of directors

"2.1. The members of the board of directors of every health care organization that has a board of directors,

"(a) must be appointed or elected through a process that is transparent and democratic; and

"(b) must be representative of the community's demographic profile."

This is the amendment that I've referred to previously. It's a variation of the one that was presented by my colleague Ms. G  linas for the same reasons as previously stated.

**The Chair (Mr. Lorenzo Berardinetti):** Any further comment?

**Mr. Bas Balkissoon:** My position on this hasn't changed. The government can't support this, similar to the NDP motion. So we'll be voting against it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. G  linas.

**M<sup>me</sup> France G  linas:** I think the new presentation and slightly different wording makes it even clearer. I cannot think of a health care organization out there, and certainly not any hospital, that would find it objectionable to have the election of their board of directors be either appointed or elected through a process that is transparent and democratic. Isn't this like motherhood and apple pie, this kind of stuff? How could you turn this down?

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? We'll put it to a vote. All those in favour of the motion? Opposed? That does not carry.

We'll move to the next motion. It's an NDP motion and it deals with section 3 of the bill. Ms. G  linas.

1640

**M<sup>me</sup> France G  linas:** I move that section 3 of the bill be amended by adding the following subsection:

"Proportional representation

"(2.1) Despite subsection (2), the composition of the quality committee must include proportional representation from each regulated health profession that practises in the organization."

This is to ensure balance within the quality committee. The quality committee exists in many hospitals but does not exist in all hospitals. Now the government will mandate every hospital corporation to have a quality committee. What we're doing is just bringing this one step further so that when they do—the ones that don't have them—put their quality committees in place, they make sure that they have proportional representation so that the committees are not made up of one type of health professional or do not exclude any health professional right now within the hospital, but as the bill evolves, within the different health care organizations.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mrs. Christine Elliott:** I would certainly support this amendment. It's certainly consistent with the government's stated intention of increasing the scopes of practice for all health care professionals, who should therefore be properly represented on any quality committee in any hospital to begin with.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** The government is not supportive of this amendment because we find it to be very prescriptive for institutions and may place a burden on some of the smaller organizations. Instead, the bill is crafted in such a way that we plan on working with our partners on the composition of these committees and we will put forward regulations to ensure the different professions are represented at that time.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? I'll put the motion to a vote. All in favour. Opposed? That does not carry.

The next motion also deals with section 3, and it's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that section 3 of the bill be amended by adding the following subsection:

"Composition to be representative

"(2.1) Despite subsection (2), the composition of every quality committee must include representatives from each regulated health profession whose members practise in the health care organization, and the number of representatives of each such regulated health profession must be in the same proportion as the number of members of the regulated health profession who practise in the health care organization."

This, again, is the same principle as articulated in the amendment brought forward by Ms. G  linas, slightly more detailed in the sense that the numbers are pre-



scribed in proportion to the numbers of the health care professionals who practise in the health care organization.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** I'd offer the same comments. Our preference would be to work with our partners and bring this forward in regulations at a later date. So we'll be opposing this.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France Gélinas:** It's certainly a motion that is in the same spirit as what we have put forward, and I will be supporting it.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All in favour of the motion? Opposed? That does not carry.

The next question is: Shall section 3 carry? All those in favour? Opposed? Carried.

We'll move on to section 4, then. The first motion is a PC motion. Ms. Elliott, if you want to read the motion into the record.

**Mrs. Christine Elliott:** I move that section 4 of the bill be amended by adding the following paragraph:

"3.1 To refer queries regarding any person's compliance with best practice guidelines to the appropriate clinical leader for review and, if warranted, appropriate action, and to require the clinical leader to report back to the quality committee on the outcome of the review."

This amendment was requested by the Ontario Medical Association, and the idea is to have the issue dealt with through the appropriate clinical leader first and then to have the matter come back to the quality committee so that any specific knowledge or any specific issues can be dealt with at that level and then brought before the committee.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** The government is opposed to this motion and we'll be voting against it. This amendment would inappropriately limit clinical decision-making for individual practitioners and the flexibility that may be required to care for exceptional populations. Instead, we are strengthening accountability for quality among health care organizations and providing tools for implementation of best practice guidelines at the clinician level, to drive clinicians to use better practice guidelines. So we'll be opposing this particular motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France Gélinas:** I would say that certainly the Ontario Medical Association has made a request. The Ontario Hospital Association has made a similar request. There are already processes in place that apply in our hospitals right now. It would be, in my view, a further step toward quality care to bring this amendment forward.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

The next question is: Shall section 4 carry? All those in favour? Opposed? Carried.

The next motion deals with section 5. It's a government motion, and Mr. Balkissoon, if you want to read that into the record, please.

**Mr. Bas Balkissoon:** I move that subsection 5(1) of the bill be struck out and the following substituted:

"Surveys

"5(1) Every health care organization shall carry out surveys,

"(a) at least once every fiscal year, of persons who have received services from the health care organization in the past 12 months and of caregivers of those persons who had contact with the organization in connection with those services; and

"(b) at least once every two fiscal years, of employees of the health care organization and of persons providing services within the health care organization."

The government is proposing this amendment because we heard that request from the deputants, and we're accommodating it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France Gélinas:** I was there and I also heard the deputants. The deputants wanted a step further than this. They wanted those surveys to be of a—the word is—oh, I forgot. Basically, you don't have to survey everybody but you have a representative sample. Those were words that were important for them and that they have brought forward.

I don't know how this works, but if a friendly amendment can be made to add "a representative sample," that would be: "in the past 12 months and of caregivers of those persons in a representative sample size."

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this particular motion?

We'll put it to a vote. Mr. Balkissoon has moved a motion. All those in favour of the motion? Opposed? That carries.

When we reach five minutes, we'll adjourn to go for the vote. We can do maybe one more motion here. It's a PC motion, also dealing with section 5. Ms. Elliott?

**Mrs. Christine Elliott:** Given that the previous motion just passed, it's very much in the same spirit, so I withdraw this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. So we have consent to withdraw the motion?

**Mr. Bas Balkissoon:** Sure.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, so that's withdrawn.

Shall section 5, as amended, carry? All those in favour? Opposed? Carried.

We move on to the next section, which is section 6. There are no amendments here, so I'll put the question. Shall section 6 carry? All those in favour? Opposed? Carried.

The next motion has to do with section 6.1. It's a PC motion: Ms. Elliott.



**Mrs. Christine Elliott:** I move that the bill be amended by adding the following section:

“Ombudsman

“6.1 For the purposes of investigating a complaint under the Ombudsman Act, a health care organization is deemed to be a governmental organization within the meaning of that act.”

**The Chair (Mr. Lorenzo Berardinetti):** I’m going to have to jump in again, similar to before. You make mention of the Ombudsman Act. I think this motion goes beyond the scope of the bill. Unless there’s unanimous consent by committee to deal with this bill, I’m going to rule that it’s out of order.

Ms. Elliott, did you want to comment?

**Mrs. Christine Elliott:** If I just may make a comment, I would just say that that’s quite regrettable, as with the previous amendment that was requested with respect to freedom-of-information requests, because if one is looking to achieve full openness, transparency and accountability in health care organizations, it’s essential that the Ombudsman be allowed to investigate complaints and situations within public hospitals.

**The Chair (Mr. Lorenzo Berardinetti):** That can be overruled if we have unanimous consent to allow this motion. I put the question.

**Mr. Bas Balkissoon:** The government can’t agree with this.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no there. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I would certainly like to support the comments that Ms. Elliott has made. We are dealing with a bill that will bring substantial changes to hospitals and to our health care system. We will be able to motivate those changes through a quality lens, which is something that could be a strong motivator for change, but you can only get to quality if you have transparency and if you have accountability. Freedom of access of information and Ombudsman oversight are two important steps to bring forward this all-important transparency and accountability that brings you to quality. So if you don’t have the fundamentals of quality, you can want to use quality as a driver for change, but if the fundamentals are not there, you’re not going to get there.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your comments.

**Mr. Bas Balkissoon:** Are we going to vote?

**The Chair (Mr. Lorenzo Berardinetti):** I’ve ruled this out of order, so it doesn’t require a vote.

The next motion is a government motion.

**Mr. Bas Balkissoon:** Should we adjourn to go to the vote?

**The Chair (Mr. Lorenzo Berardinetti):** I would suggest that we stop, come back and deal with the government motion, because it deals with section 7.

We’re recessed until after this vote.

*The committee recessed from 1652 to 1702.*

**The Chair (Mr. Lorenzo Berardinetti):** We have quorum, so I’ll call the meeting back to order.

We’re dealing now with the government motion. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you, Mr. Chair. I move that—

**M<sup>me</sup> France Gélinas:** Why don’t we wait for the—

**The Chair (Mr. Lorenzo Berardinetti):** We have quorum.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** There we go.

It would take him at least a minute to read this, anyway. As I said, we’re back in session. Mr. Balkissoon, do you want to read the amendment?

**Mr. Bas Balkissoon:** I move that subsection 7(1) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“7(1) Every health care organization that does not already have a publicly available patient declaration of values produced after consultation with the public shall.”

Just a comment: Trillium Health Centre made a very thoughtful submission in regard to this requirement being put on hospitals to develop a patient declaration of values, making the case that it does not adequately recognize hospitals that have already done so. We agree with them, and this is why we’re moving this particular amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Although I have no problem with what the amendment is trying to do, I find there’s a level of inconsistency coming from the government. Sometimes the government looks at hospitals as independent corporations and they don’t want to assign them any direction. Sometimes they look at them as one big melting pot where everybody has to comply. Sometimes they look at them and say, “If you’ve already done the work, you won’t have to do it again.” This lack of consistency, to me, is not healthy, does not lead to healthy decisions and does not lead to a clear understanding.

I have no problem with this particular amendment. I have a problem with a government that sometimes treats hospitals as independent corporations at arm’s length that they don’t want to touch and sometimes as an extension of the government that they can direct the way they see fit.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? Okay. We’ll take a vote on the motion. All those in favour of the motion? Opposed? That carries.

Shall section 7, as amended, carry? All those in favour? Opposed? Carried.

The next motion is a PC motion dealing with section 8. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subsection 8(1) of the bill be struck out and the following substituted:

“Quality improvement plans

“8(1) In every fiscal year, every health care organization shall develop a quality improvement plan for the next fiscal year and shall,



“(a) make the quality improvement plan available to the public; and

“(b) provide a copy of the quality improvement plan to the council in such format as the council may require to enable the council to report on and provide a province-wide comparison on a minimum set of quality indicators.”

This amendment was suggested by Cancer Care Ontario so that health care organizations provide a copy of their annual quality improvement plan to the council, which is allegedly going to be making province-wide recommendations. So it allows them to collect that data to make the appropriate decisions.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** We sort of agree with this amendment as suggested by Cancer Care Ontario, but the government feels more comfortable supporting the NDP motion because of the wording, which is motion 2(b)(i). We’re going to vote against this one but we’ll support 2(b)(i).

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We’ll vote on the motion. All those in favour of the motion? Opposed? That does not carry.

We’ll go to the next page. It’s also a PC motion. Ms. Elliott.

In looking at this, Ms. Elliott, you may want to do 2(a)(ii) first, before you do this one here. It’s up to you, but I think it would probably be better to do your second motion first.

**Mrs. Christine Elliott:** The first one is the preferable one to delete and the second one is the alternative.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Go ahead.

**Mrs. Christine Elliott:** I move that subsection 8(4) of the bill be struck out.

This again was at the request of the RNAO, to delete the ability of the LHIN to obtain a draft of the quality improvement plan before it is released to the public, on the basis that there should be, if not contemporaneously, a public release; there shouldn’t be an unlimited period of time before the release to the public that the LHIN should have a copy of the plan.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** The government can’t support this motion. We’ll be supporting something similar later on.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I certainly support the spirit of what Ms. Elliott is trying to bring forward. The idea that once your plan has been drafted in a way that it is ready to be shared, if you are serious about transparency, which is one of the pillars of quality, then you cannot share it with the LHINs for an indefinite period of time. God knows what will happen to it. This is one way to deal with this issue. I see that everybody has had their own

hands out trying to find one. This one is as good as any other one.

**The Chair (Mr. Lorenzo Berardinetti):** I’ll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

We’ll go to the next page. It’s also a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** This is an alternative amendment. I move that subsection 8(4) of the bill be struck out and the following substituted:

“Disclosure to LHIN

“(4) At the request of the local health integration network for the geographic area in which a health care organization is located, the health care organization shall provide the local health integration network with a draft of the annual quality improvement plan for review and shall make the final annual quality improvement plan available to the public not more than 30 days later.”

Again, this is to improve transparency and accountability and to allow for the public release of the plan within 30 days of the release to the LHIN.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** As stated before, this is similar to the previous motion. We’re going to vote against this one because we’re in support of something two motions away which is probably better worded, for us.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France Gélinas:** I would say that the spirit of what we’re trying to achieve is something that is worth supporting.

**The Chair (Mr. Lorenzo Berardinetti):** I’ll put the motion to a vote. All those in favour? Opposed? That does not carry.

1710

The next motion is an NDP motion dealing with the same section of the bill. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that subsection 8(4) of the bill be amended by adding “and shall make the draft public within 30 days of providing it to the local health integration network” at the end.

I think the issue we’re trying to make is that once the document is ready, there is no healthy purpose that can be achieved by not making it public. When a draft is ready to be shared, when a document is ready, let’s make that document public. It is the reason why we are working on this bill. One of the pillars of improving quality is to make that type of information available in the briefest of moments, and this is what we’re trying to do by introducing the 30 days.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** We can’t support this motion because of the prescriptive time frame. Unfortunately, it’s a draft going to the LHIN, and there might be modifications. You don’t want to confuse the public by making that draft public until it’s finalized, so we can’t support this motion at all.



**The Chair (Mr. Lorenzo Berardinetti):** Ms. Elliott.

**Mrs. Christine Elliott:** I would certainly support this amendment. It's certainly in keeping with the same spirit in which I presented the previous amendments. It would seem to me that it's precisely for the reason that has been previously stated: that it shouldn't be in a draft form when it's submitted to the LHIN, it should be in the final form and then submitted to the public within a reasonable time thereafter, because it leaves too much open to interpretation and change. If it's a document that the health care organization, the committee, is happy with, then there should be no reason for further change once it's submitted to the LHIN.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

We'll go to the next page, page 2(b)(i). It's also an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that the bill be amended by adding the following subsection:

"Copy to council

"(5) Every health care organization shall provide a copy of its annual quality improvement plan to the Ontario Healthy Quality Council in a format established by the council that permits province-wide comparison of and reporting on a minimum set of quality indicators."

What this amendment is trying to do is to bring the possibility for the Ontario Health Quality Council to basically agglomerate and put all of the different indicators coming from a family of health care providers together and roll them up without having to do any interpretation of it. The council would set the format, the council would set a minimum set of quality indicators that they intend to roll up at a provincial level, and the different transfer payment agencies, hospitals etc. would have to follow that format.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** We'll be supporting this motion. We agree with it and we want to thank Cancer Care Ontario for their suggestion. We believe it'll be beneficial for quality improvement efforts of the health care organizations, and we look forward to working with all our partners on the implementation through the regulation process.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Elliott.

**Mrs. Christine Elliott:** The Progressive Conservatives are certainly prepared to support this amendment as well.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the amendment to a vote. All those in favour? Opposed? That carries.

Shall section 8, as amended, carry? All those in favour? Opposed? Carried.

The next motion is a PC motion with respect to a new section, 8.1. Ms. Elliott, if you want to read it into the record.

**Mrs. Christine Elliott:** I move that the bill be amended by adding the following section:

"Medical advisory committee, Public Hospitals Act

"Medical advisory committee to be representative of regulated health professions

"8.1 Despite subsection 35(1) of the Public Hospitals Act and the regulations made under that act, the medical advisory committee established under that subsection must be composed of representatives from each regulated health profession whose members practise in the hospital, and the number of representatives of each such regulated health profession must be in the same proportion as the number of members of the regulated health profession who practise in the hospital."

**The Chair (Mr. Lorenzo Berardinetti):** I'm going to have to jump in again, because of the fact, in my view as Chair, that this motion goes beyond the scope of the bill in front of us today. So unless we have unanimous consent to deal with this motion, I'm going to have to rule it out of order.

**Mrs. Christine Elliott:** I would ask for unanimous consent.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have unanimous consent to deal with this?

**Mr. Bas Balkissoon:** We can't agree, Mr. Chair, because we don't agree with the motion.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no there, so I'm going to have to rule this out of order.

We'll move on to the next motion, then. It's a PC motion. Ms. Elliott, do you want to read that motion?

**Mrs. Christine Elliott:** I move that the bill be amended by adding the following section:

"Consultancy contracts

"Approval of consultancy contracts

"8.2 No hospital consultancy contract has any force or effect unless and until it is approved by the local health integration network for the area."

This—

**The Chair (Mr. Lorenzo Berardinetti):** Again, in my view, this is going beyond the scope of the bill because you are making mention for approval required by the local health integration network. Again, unless—

**Mrs. Christine Elliott:** I would ask for unanimous consent.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have unanimous consent to deal with this?

**Mr. Bas Balkissoon:** We don't agree with the motion, so I can't accept unanimous consent.

**The Chair (Mr. Lorenzo Berardinetti):** That's a no there, so unfortunately, I'm going to have to rule this out of order.

We'll move on to section 9 of the bill, then. The first motion is on page 2(c). It's an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that section 9 of the bill be amended by adding the following subsection:

"Cap

"(1.1) A plan for the compensation of an executive entered into after the coming into force of this section shall not provide for annual compensation that exceeds twice the annual salary of the Premier of Ontario."



Through the sunshine list, there has been an outrage in Ontario when the salaries of top executives of hospitals are shown to be three and four times the salary of the Premier of Ontario. The executives of health care organizations, mainly hospitals, have big responsibilities—nobody denies that—but I think the Premier of the province has big responsibilities also. He is responsible for a budget of close to \$100 billion. No hospital executive's budget comes anywhere near close to that amount, anywhere near close to one tenth that amount. It's the same thing with the amount of responsibilities that the Premier of Ontario has. He is responsible for two dozen different ministries. Although a hospital may have many different programs, it is in keeping with what would be more acceptable to the people of Ontario.

These are taxpayers' dollars that are for our health care system, and the public would like as much of those taxpayers' dollars to make their way to front-line care. We have no problem with executives being well-compensated for the important work they do, and we think that putting in compensation that's twice the amount of the Premier's is reasonable compensation.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government will not be supporting this motion. We believe that the act that is in front of us represents a positive step forward by linking executive compensation to quality within a hospital system. We believe that this motion is detrimental to our health care system because we want to attract the best people to work in our system to drive innovation and quality. The budget bill, which was passed recently, provides for the freezing of compensation of hospital executives. This bill takes it the next step forward, and we believe that we're doing this in the right way.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Gélinas.

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**M<sup>me</sup> France Gélinas:** I would say that if you have to rely on compensation to attract the best people, there is something fundamentally wrong with your health care system. Health care executives go into different positions for the challenge, for the opportunity; for the opportunity to motivate change, to provide good care. Compensation is but one part of what will motivate a health care executive to take a position. This argument, then, would mean that we don't have the compensation package to attract the best Premier; we don't have the compensation package to attract the best MPPs.

Salaries are but one part of what makes up the job of a hospital executive. I think the way it is now, it is not acceptable to the people of Ontario.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

The next motion is the government motion on page 3.

**Mr. Bas Balkissoon:** I move that subsections 9(10) and (11) of the bill be struck out.

Just as a comment, the budget bill has passed and this particular section is no longer necessary, so it's a technical amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this? None? We'll take a vote. All those in favour? Opposed? That carries.

Shall section 9, as amended, carry? All those in favour? Opposed? Carried.

The next motion is on page 3(b). It's an NDP motion. Ms. Gélinas, if you would like to read it.

**M<sup>me</sup> France Gélinas:** I move that the bill be amended by adding the following section:

"Consultancy contracts

"9.1 Every health care organization shall, before entering into a consultancy contract, receive the approval of the local health integration network for the geographic area in which the health care organization is entered."

**The Chair (Mr. Lorenzo Berardinetti):** I'm going to have to rule that out of order. The reason is that you're trying to ask the LHIN to be involved in something that's beyond the scope of this act. Unless we get unanimous consent, it's beyond the scope of the act, in my view as Chair. You can ask for unanimous consent.

**M<sup>me</sup> France Gélinas:** No. I want to take exception a little bit to what you said, because certainly the LHINs are mentioned in the bills. They are given responsibility at different levels for reviewing. I can't see how asking them to review one more piece of the quality puzzle could be ruled out of order.

**The Chair (Mr. Lorenzo Berardinetti):** That's my ruling. If you want to challenge the Chair, you can, but I think you're asking for something else beyond the scope. In my job as Chair, I'm ruling it out of order.

**M<sup>me</sup> France Gélinas:** Then I would ask for unanimous consent to be able to take my motion forward.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have unanimous consent?

**Mr. Bas Balkissoon:** No. We're not supportive of the motion, so I can't grant unanimous consent.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no there.

We'll move on, then, to page 3(c). It's an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that the bill be amended by adding the following section:

"Ombudsman

"9.1 The Ombudsman appointed under the Ombudsman Act has the authority to investigate public complaints involving health care organizations."

Ontario is an anomaly when it comes to Ombudsman oversight of its hospitals. It is the only—

**The Chair (Mr. Lorenzo Berardinetti):** Sorry, I'm going to have to jump in again. My apologies. The Ombudsman Act that's mentioned here—I'm trying to allow as much flexibility as possible, but again, we're asking the Ombudsman to do something that's beyond the scope of this act, so I'm going to have to rule the motion out of order unless you get unanimous consent to override what I've ruled.



**M<sup>me</sup> France G  linas:** Can I ask for unanimous consent?

**Mr. Bas Balkissoon:** We're not supportive.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no there, so unfortunately that motion is out of order.

We'll move on to the next page, 3(d). It's an NDP motion, and it has to do with section 10 of the act.

**M<sup>me</sup> France G  linas:** I move that subsection 10(3) of the bill be amended by adding the following clause:

"(a.1) persons with expertise in health and safety."

Basically, what we are trying to do is make sure that for the selection of the quality council, we make absolutely sure in legislation that we have people there who have health and safety experience, knowledge and skills.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** The government can't support this motion. We'll be supporting the motion on page 4, which adds a couple of other additional factors to the formula, if I could put it that way. This is just part of what we're looking for, so we'll be supporting our motion on page 4 and we'll vote against this one.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mrs. Christine Elliott:** I would certainly support this amendment.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour? Opposed? That does not carry.

The next page, page 3(d)(i): It's a PC motion also dealing with section 10. Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 10(3)(d) of the bill be struck out and the following substituted:

"(d) persons from the community with a demonstrated interest or experience in the evaluation of health services and clinical services; and."

This was recommended by Cancer Care Ontario to ensure that people with experience in both health services and clinical service evaluation be included on the council.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** The next motion, which is a government motion, adopts this particular principle, so we'll be voting against this and we'll be supportive of our own motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France G  linas:** I think this is an important amendment. People who have clinical services skills don't necessarily have evaluation skills, and this is something that would bring the competence of the council up to par and certainly something I would support.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

On the next page, page 4, there's a government motion. Mr. Balkissoon, if you want to read that into the record, please.

**Mr. Bas Balkissoon:** I move that subsection 10(3) of the bill be amended by striking out "and" at the end of clause (d) and by adding the following clauses:

"(f) persons with interest or experience in clinical service evaluation;

"(g) persons with expertise in quality improvement including expertise in the measurement of quality indicators; and

"(h) persons with expertise in the creation of a safe, quality and healthy work environment."

We are submitting this amendment as a result of the comments received during deputations from Cancer Care Ontario and the Ontario Nurses' Association. We believe it will accomplish what they were asking for.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France G  linas:** Here again somebody has to enlighten me. How come whenever we talk about a different piece of legislation, we are ruled out of order, but now we are talking about making changes to the Commitment to the Future of Medicare Act, an act that was passed in 2004, an act that is different than the act that we are talking about now?

I have no problem with the amendment; I have a problem with the process that we are following. If I make reference to that act, you're going to rule me out of order because I'm not talking about this bill, but if the government makes reference to an act, then everybody's happy. What's the difference?

**The Chair (Mr. Lorenzo Berardinetti):** This doesn't refer to any other bill. It's within the scope of this bill in front of us. With the greatest of respect, the ones that I've ruled out of order make reference to other bills, either directly or indirectly. This one does not do that.

**M<sup>me</sup> France G  linas:** This bill changes the Commitment to the Future of Medicare Act. The name of this bill here is not it.

**Mr. Mike Colle:** Vote against this, then.

**M<sup>me</sup> France G  linas:** No. I just want clarification as to: Why is it that when we make reference to another bill, we're ruled out of order? They're making reference to another bill now, but it is okay.

**The Chair (Mr. Lorenzo Berardinetti):** I've already made my ruling. I think legislative counsel can give some clarification, but I gave my ruling.

**Mr. David Zimmer:** Mr. Chair, a point of order.

**The Chair (Mr. Lorenzo Berardinetti):** You're next, but let me have legislative counsel comment and then—

**Mr. David Zimmer:** Point of order.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, go ahead.

**Mr. David Zimmer:** I have sympathy with the difficulty you're having. I remember the first time after the 2003 election and I came to one of these clause-by-clause exercises. I had the same difficulty understanding the technical rules, if you will. What I did was, I arranged to have a session with legislative counsel, who explained things to me. I'm a trained lawyer, but I had never done one of these things. After legislative counsel walked me



through what you could do in terms of amendments and so on, I found that very helpful and it helped me to deal with it. I say this with the greatest of respect. At the break, you might have a chat with legislative counsel and she can walk you through that. Just a suggestion.

**The Chair (Mr. Lorenzo Berardinetti):** We have to leave in about a minute, so I think legislative counsel maybe can address your concern as well.

**Ms. Catherine Macnaughton:** In this particular section 10, in the bill that had first reading and second reading, they're already talking about the council in that act, the Commitment to the Future of Medicare Act. They're continuing that council under this act. The issue was already open in the bill as already introduced, and it's within the scope that was voted on in second reading, so an amendment relating to what's in this provision already is within the scope.

With the Ombudsman issue, it was out of left field, as it were, because the bill doesn't contemplate anything of that nature. Once you've passed second reading, the scope of the bill is set and fixed, and at that point you have to stay within the scope of the bill. If the bill had been in committee after first reading, there's a much wider range because the scope has not yet been voted on at second reading.

We'd be pleased to meet with you at any time if you want to go through some of these rather strange rules that they have.

**The Chair (Mr. Lorenzo Berardinetti):** I'm just going by the rules as well. I'm not taking any sides.

Any further comments? We'll vote on the government motion. All those in favour? Opposed? That carries.

The time is only four and a half minutes, so we'll recess to go vote in the Legislature and then come back. We're recessed.

*The committee recessed from 1733 to 1743.*

**The Chair (Mr. Lorenzo Berardinetti):** I'll call the meeting back to order.

Just as announcement, if you were wondering about food, there will be dinner served in the next room over from here. There are some sandwiches available.

**Mr. Mike Colle:** I hope there's vegetarian food. I'm sick of all the meat around this place.

**The Chair (Mr. Lorenzo Berardinetti):** We've got that noted in the record.

The next motion is on page 4(a). It's a PC motion. Ms. Elliott, if you'd like to read it into the record, please.

**Mrs. Christine Elliott:** I move that subsection 10(3) of the bill be amended by striking out "and" at the end of clause (d) and by adding the following clauses:

"(f) persons with expertise in the development and implementation of clinical practice guidelines and protocols; and

"(g) persons with expertise in quality improvement, including expertise in the measurement of quality indicators."

I recognize that this is very similar to the previous amendment, which was just passed, the government amendment. This was recommended by Cancer Care On-

tario. I do believe it is important to mention the expertise in the development and implementation of clinical practice guidelines and protocols, which was not included in the government's amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mr. Bas Balkissoon:** Just a comment: The government supported motion 29, which we believe accomplishes everything in this motion, so we'll be voting against it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Although the changes are subtle, I think they are of essence. When you look at the development and implementation of clinical practice guidelines—if the centres of excellence in health care have taught us anything, it's that you can have the best practices ever thought of but if you don't have a way to implement them at the hands-on level, they are all but useless. Our short history with best practices and informed care has certainly taught us that. Although they are small changes, I think they would make this bill stronger if we were to put them in.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? So we'll take the vote on the motion. All those in favour? Opposed? That does not carry.

We'll move to the next motion. It's also a PC motion, on page 4(b). Ms. Elliott?

**Mrs. Christine Elliott:** I move that section 10 of the bill be amended by adding the following subsection:

"Former members, officers, etc.

"(6.1) A person is not prohibited from being a member of the council by reason of being a former member of the board or a former chief executive officer or former officer of a health system organization."

Again, this was recommended by Cancer Care Ontario just to clarify that former board members, CEOs and officers of a health system organization may be members of the council and won't be precluded from so acting.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon?

**Mr. Bas Balkissoon:** The government will be supporting this motion because it's similar to a motion we have later on. This motion allows for a broad range of experts to be included for consideration on the council, so we're supportive.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** I would also support it.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion. All those in favour of the motion? Opposed? That motion carries.

We have one more motion. It's a government motion, I believe. It deals with section 10. Mr. Balkissoon?

**Mr. Bas Balkissoon:** I move that the French version of subsection 10(7) of the bill be amended by striking out "la présente loi" in the portion before the definition and substituting "au présent article."

I hope my French was good. I'm not an expert at it.



**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll vote on the motion. All in favour? Opposed? That carries.

The next question is: Shall section 10, as amended, carry? All those in favour? Opposed? Carried.

The next motion, on page 5(a), is an NDP motion. I'm sorry. Let me deal with section 11 first. I'm getting ahead of myself.

There are no amendments to section 11, so I'll put the question forward. Shall section 11 carry? Carried.

We'll go to section 12. On page 5(a) there is an NDP motion. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** I move that subclauses 12(1)(a)(i) and (ii) of the bill be struck out and the following substituted:

“(i) access to health services,

“(ii) health human resources.”

We are in the section that deals with the function of the council, and we would like those two added for now.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon?

**Mr. Bas Balkissoon:** The government can't support this motion. This amendment would expand the mandate of the Ontario Health Quality Council to not just publicly funded health services but privately funded services as well. We are significantly expanding the council's role and mandate with the act that's in front of us, and we think the council's mandate should remain focused on publicly funded services at this present time. We don't want to compromise our efforts by expanding the council's mandate by a significant amount in such a short time frame. So at this time we're not prepared to support this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Elliott?

**Mrs. Christine Elliott:** I would certainly support this amendment, Mr. Chair. It's very much in keeping with the spirit of similar amendments which the Progressive Conservatives are putting forward. Certainly, if you're looking at excellent care for all, it shouldn't just be in the context of publicly funded services in public hospitals; it should apply to all health care organizations.

1750

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** We all know that a number of important health care services have been de-listed. Whether you look at physical therapy, optometry or chiropractics, those are not part of the publicly funded envelope, certainly not for chiropractic services anymore. But if you look at best practice, and I will take the example of a whiplash injury when somebody is in a car accident—most of the time a quick movement of the neck and they end up with a very sore neck—the best practice will tell you that chiropractors have a role to play in helping people recover after this type of musculoskeletal incident. But if we limit the scope of the council to solely publicly funded, that means that all of the expertise that those health care professionals have brought forward will never be looked at.

We're not making a pitch for the government to spend more; all we're saying is, when you look at best practice, look at everything that is available to the people of Ontario. Unfortunately, that means some of the ones that have been delisted—not even “unfortunately”; you should look at the best practice that includes all of the health professionals that are regulated by the province of Ontario. Chiropractors have their own college, they are covered by HPRAC, but the way this is worded, we will never look at their scope of practice, we will never look at how they can help the people of Ontario get better, because we have given it a narrow focus.

I have no problem with putting forward wording that limits it a bit, but to solely say, “If you don't get funding, because we have delisted you, it doesn't matter if you are a recognized professional in the province of Ontario; we're not going to look at what you have to offer the people of Ontario.” To me, this is to deny ourselves a great opportunity and to deny the people of Ontario a great opportunity for quality care.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote, then. All those in favour of the motion? Opposed? That does not carry.

We now go to page 5(b); it's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subclause 12(1)(a)(i) of the bill be amended by striking out “publicly funded.”

Again, this was an amendment suggested by the Ontario Chiropractic Association to ensure that the council could also monitor and report to the public on access to all health services and not just those which are publicly funded, so it's very much in the same spirit as the argument which was made in support of the previous amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** As I explained on the previous motion, for the same position the government cannot support this motion at this time.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** It's all fine to say that they can't support it, but how can they justify regulating health professionals in Ontario but then not asking for—at least half of the regulated health professionals in Ontario do not get public funding. How do you justify taking the magic eraser to all of the services that those professionals have to offer and not want them to be part of the new quality improvement that this bill is all about? It's fine to say this, but how can you justify your decision?

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll take a vote on the motion. All those in favour? Opposed? That does not carry.

We'll go to the next page, 5(c); it's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subclause 12(1)(a)(ii) of the bill be struck out and the following substituted:

“(ii) human resources in health services.”



Again, the same argument as was made with the previous amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** We won't be supporting this motion, for the same reasons I explained previously. Our belief is that the Ontario Health Quality Council will look at expanding their mandate at a future date. At the present time we don't see that it precludes them from doing that, but we would like them to focus on this particular act at this time.

**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? No. We'll take a vote. All those in favour of the motion? Opposed? That does not carry.

We'll go to page 5(d). It's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subclause 12(1)(c)(i) of the bill be struck out and the following substituted:

"(i) developing clinical practice guidelines and protocols and making recommendations to health care organizations and other entities in the health system respecting clinical practice guidelines and protocols, and."

This was an amendment which was requested by Cancer Care Ontario to clarify that the council is not just to be monitoring and making recommendations but actually to be developing clinical practice guidelines and protocols, to be very active in the development of a much more proactive responsibility than just monitoring.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government side will not be supporting this motion at this time. The Ontario Health Quality Council will not be developing clinical practice guidelines. Our motion, which is the next motion, will clarify our position. We'll be supporting that motion instead.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Cancer Care Ontario certainly has been a forerunner when it comes to the establishment of best practices, not only at the theoretical level where the research supports what's going on on the ground, but also in making sure that the dissemination of those best practices is done in a very clever way that allows patients to have access to those best practices. This is what they were asking for. I think they speak with authority when it comes to this subject, because they are at the forefront of it.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

I think we have time for another motion. Mr. Balkissoon?

**Mr. Bas Balkissoon:** I move that subclauses 12(1)(c)(i) and (ii) of the bill be struck out and the following substituted:

"(i) making recommendations to health care organizations and other entities on standards of care in the health system, based on or respecting clinical practice guidelines and protocols; and

"(ii) making recommendations, based on evidence and with consideration of the recommendations in subclause (i), to the minister concerning the government of Ontario's provision of funding for health care services and medical devices."

Just a comment on this: We're proposing this motion in response to stakeholders to clarify that the council will not itself be developing clinical practice guidelines. This amendment will clarify the council's recommendations to the minister concerning funding based on evidence.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? No. We'll vote on the motion. All those in favour?

I'm sorry. Ms. Gélinas, did you want to speak to this?

**M<sup>me</sup> France Gélinas:** Yes. So the council will be making recommendations based on or respecting clinical practice guidelines and protocol but they won't be developing CPGs?

**Mr. Bas Balkissoon:** I believe that's what I said, Mr. Chair.

**The Chair (Mr. Lorenzo Berardinetti):** All right. So we'll take a vote on the motion. All those in favour? Opposed? That carries.

Do we have time for one more motion? We'll continue on. Page 5(e). This is a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 12(1)(c) of the bill be amended by striking out "and" at the end of subclause (i), by adding "and" at the end of subclause (ii) and by adding the following subclause:

"(iii) reviewing progress in achieving the evidence-based target of full-time employment for 70 per cent of all nurses in Ontario."

This was recommended by the Registered Nurses' Association of Ontario to mandate that the council review progress towards the achievement of the evidence-based target to 70% of full-time work for all nurses in Ontario, which is certainly consistent with the request of the RNAO and the stated intentions of the government.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** The government can't support this motion because the Ontario Health Quality Council is an independent body that sets out its own activities based on a business plan that is produced each year. Enshrining the monitoring of a specific deliverable in legislation would not be consistent with how the council has been set up.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Here again, this is where I see discrepancies where the government is quite willing to dictate to the Ontario Health Quality Council a new mandate that is quite different from what they have been doing so far. Mind you, they are a stellar organization that always has produced very good work for the people of Ontario. But with this bill, we are substantially changing their mandate and changing the way they do things. This is one change among many.



**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion. All those in favour of the motion? Opposed? That does not carry.

We'll continue on. Actually, it is 6 o'clock.

**Mr. Bas Balkissoon:** Mr. Chair, can we take the next one because it's similar?

**The Chair (Mr. Lorenzo Berardinetti):** Unfortunately, it's on television—they have recessed there as well. So we're recessed until 6:45.

*The committee recessed from 1800 to 1847.*

**The Chair (Mr. Lorenzo Berardinetti):** Good evening, everybody. We're back in session. We're returning to deal with Bill 46. When we last left off we were about to consider an NDP motion, clause 12, and it's on page 5(f). Ms. Gélinas, would you read the motion?

**M<sup>me</sup> France Gélinas:** Sure. I move that subsection 12(1) of the bill be amended by adding the following clause:

“(c.1) to review progress towards the evidence-based target of 70 per cent full-time work for all nurses in Ontario as part of the council's function to promote health care that is supported by the best available scientific evidence.”

This bill talks to quality. Lots of scientific evidence exists to support a balance of 70% full-time nurses. Most of the studies that have been done pertain to hospitals, but given that this bill will be applied firstly to hospitals, I think it applies. The research does not say that it doesn't apply elsewhere, but certainly as an evidence base supports that if you want quality care, the nurses are the only 24/7 health professionals in our hospitals; they are the bedside 24/7 health care providers. If you want quality care in our hospitals, one of the first things you have to do is you have to adjust your human resources pattern to have 70% full-time workers. The health quality council will be charged with looking at quality indicators. This is one indicator that already exists and that the health quality council should be mandated to follow.

*Interruption.*

**M<sup>me</sup> France Gélinas:** Didn't we just hear a bell?

**The Chair (Mr. Lorenzo Berardinetti):** Could be a motion to adjourn debate. We'll continue on until we see what the screen shows. It looks like the whip is handing over a deferral slip.

Sorry, Ms. Gélinas. Had you completed your comments?

**M<sup>me</sup> France Gélinas:** Sure, I'll wrap it up.

**The Chair (Mr. Lorenzo Berardinetti):** Further comments? Ms. Elliott.

**Mrs. Christine Elliott:** I would certainly support this amendment, having brought forward a similar amendment previously, and I would urge the government members to reconsider their position on this.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** This motion is similar to the PC motion, and the government didn't support that for a specific reason. I don't want to repeat the same comments, but we'll be voting against it.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion. All those in favour? Opposed? That does not carry.

Page 5(g) is also an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that subsection 12(1) of the bill be amended by adding the following clauses:

“(c.1) to, in consultation with expert organizations, develop a minimum set of quality indicators to be used by health care organizations in the development of their annual quality improvement plans for submission to the council;

“(c.2) to develop an annual report on system performance based on information provided in annual quality improvement plans, and make this report available to the public.”

Basically, this section talks to the health quality plan and how key indicators should be used province-wide and how it should be made available to all.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Elliott.

**Mrs. Christine Elliott:** I would certainly support this amendment. I think, for consistency's sake, if you're trying to develop a uniform set of indicators across the province, you should have at least a minimum set to be used and applied consistently.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** While the government agrees it is beneficial for the Ontario Health Quality Council to receive quality improvement plans, the level of detail in this amendment could limit the flexibility of the organization to develop quality improvement plans based on the priorities of their own organization. What the government would prefer to do is work with all the partners on the implementation details and prescribe those in regulations and policy.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion, then. All those in favour? Opposed? That does not carry.

We'll go to the next page, 5(h). It's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subsection 12(1) of the bill be amended by adding the following clause:

“(c.1) in consultation with organizations with experience in the development of health care quality indicators, to develop a minimum set of quality indicators to be used by health care organizations in the development of their annual quality improvement plans.”

Again, we're moving this forward as recommended by Cancer Care Ontario for the same reasons as previously stated, to develop a minimum set of quality indicators to be used province-wide.

**The Chair (Mr. Lorenzo Berardinetti):** Any further comments? Mr. Balkissoon.

**Mr. Bas Balkissoon:** As I stated before, we would prefer to work with all the different partners in the health care system and prescribe this through regulation and policy, so we'll be opposing this particular motion.



**The Chair (Mr. Lorenzo Berardinetti):** Any further comments? Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** To put the obligation to develop quality indicators rights into the bill really speaks to another pillar of how to improve quality in a health care system. You have to develop quality indicators. Right now, hospitals sign accountability agreements with their LHINs. They used to do that with the ministry; they now do that with the LHINs. Most of the indicators in there are indicators related to value for money. Unless we move beyond value for money and start to develop indicators of quality, then it will be really hard to use quality as a driver for change. So I would certainly be in support of this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll take a vote on the motion. All those in favour? Opposed? That does not carry.

There is one more motion to do with this section. It's a PC motion, page 5(i). Ms. Elliott.

**Mrs. Christine Elliott:** I move that subsection 12(1) of the bill be amended by adding the following clause:

"(c.2) to develop and make available to the public an annual report on health system performance based on information provided in the annual quality improvement plans of health care organizations."

Again, this suggestion for amendment was made by Cancer Care Ontario to ensure that the council is mandated to develop an annual report on system performance. If they're going to be collecting this information and making recommendations, it would only make sense to have an annual report, for further transparency and accountability.

**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** This is a similar motion to the previous two, so the government can't support it, for the same reasons explained previously.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I find that this motion is very specific to the publication of an annual report. This is something that the health quality council has been doing since it has existed. This is something that is valued by the health care field, and to me, this is something that is worth including in the bill so that the mandatory reporting happens at least on an annual basis. What's the point of doing all this work if, in an election year, you decide that no report will be available this year, or for any other reason? To me, to put in law a practice that has been there that will probably continue—then it cannot be influenced by other activities. When you put it in law, it will continue to be there.

I disagree with Mr. Balkissoon that because they turned the NDP motion down, they should turn this one down. This one is really, really specific to one of the points that I had been making; that is, having a public annual report.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on it. All those in favour of the motion? Opposed? That doesn't carry.

The next question is: Shall section 12, as amended, carry? All those in favour? Opposed? Carried.

We'll move on to section 13. The first motion is on page 5(j). It's an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that subclause 13(1)(a)(i) of the bill be struck out and the following substituted:

"(i) on the state of the health system in Ontario, including recommendations regarding improved system performance, and."

Basically, what we're talking about here is the report that will be sent to the minister. It will be a yearly report. Not only will it be on the state of the health system, which is what the Ontario Health Quality Council is doing right now, but it would also include recommendations regarding improved system performance. So we're talking about making broad recommendations about the health care system in its entirety.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Mr. Balkissoon.

**Mr. Bas Balkissoon:** This act significantly expands the role and mandate of the Ontario Health Quality Council. Any further expansion could jeopardize the efforts contained in this bill. We're very concerned about that, so we can't support this motion at this time.

**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? I'll put the motion to a vote. All those in favour? Opposed? That does not carry.

We'll move on to page 5(k). This is a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 13(1)(a) of the bill be amended by adding the following subclause:

"(iii) providing its recommendations for improving health system performance; and."

Again, this is recommended by Cancer Care Ontario to ensure that the council, in its annual report to the minister on the state of the health care system in Ontario, includes recommendations regarding improved system performance, which only makes sense. If the report's going to be made, there should be suggestions with respect to improvement.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** We'll be opposing this one for the same reason as the previous one, because they're similar.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** This is something that already happens within the health quality council. The health quality council has been doing yearly reports. They have been reporting on the state of the health care system, and they also make recommendations. I disagree with Mr. Balkissoon saying that this would add substantially to their mandate. Their mandate, as it exists, has allowed them to make recommendations, because this is certainly something that they have been doing. The comments made by the member make me worried that they are wanting to influence the behaviour of the Ontario Health Quality Council away from making recommendations,



and I think that would be a step away from improving quality of care; it wouldn't be a step forward.

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**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion. All those in favour of the motion? Opposed? That doesn't carry.

The next question is: Shall section 13 carry? All those in favour? Opposed? Carried.

New section 13.1, page 5(l): It's a PC motion. Ms. Elliott, if you want to read it, please?

**Mrs. Christine Elliott:** I move that the bill be amended by adding the following section:

"Nurse practitioners

"Duties of nurse practitioners

"13.1 Despite any provision of or regulation made under the Public Hospitals Act, nurse practitioners may authorize the admission, treatment, transfer and discharge of hospital in-patients."

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry; I have to interrupt again because of the fact that mention is made of the Public Hospitals Act. It's beyond the scope of this bill today to try to make reference to or move beyond the Public Hospitals Act. It's beyond the scope of the bill, and I'm going to rule that it's out of order.

**Mrs. Christine Elliott:** I would ask for unanimous consent, Chair, for that to be included.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have unanimous consent?

**Mr. Bas Balkissoon:** We can't support the motion, so I can't concur with unanimous consent. This would be better dealt with when we do the Public Hospitals Act review.

**The Chair (Mr. Lorenzo Berardinetti):** That's out of order.

We'll move to the next. On page 6—actually, first, we have to do section 14. Shall section 14 carry? All those in favour? Opposed? Carried.

Section 15: On page 6, there's a government motion. Mr. Balkissoon.

**Mr. Bas Balkissoon:** I move that section 15 of the bill be amended by adding the following subsection:

"Public consultation

"(2) Before making a regulation under this section, the minister shall consult with the public in accordance with the relevant policies of the government of Ontario concerning public consultation in the making of regulations."

I think this particular amendment clarifies what the government intends to do and also responds to some of the submissions that we received.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**M<sup>me</sup> France Gélinas:** Just for my own information: "in accordance with the relevant policies of the government"—does that mean 60 days?

**Mr. Bas Balkissoon:** I can't answer that. This motion is basically saying that what we do today we will continue to do.

**M<sup>me</sup> France Gélinas:** In some of the other acts that regulate the health care system, you have a mandatory 60-day consultation if you are to make changes to the regulations. In others, it's 30 days, and in others, it doesn't exist at all. So, "in accordance with relevant policies of the government": I scratch my head as to—what are those?

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** If permission could be granted, I'd ask ministry staff to respond to what the practice is. I believe it might be 60, but I just would prefer that the ministry respond to this.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have consent from the committee?

Ms. Gélinas, is that okay to hear from the ministry?

**M<sup>me</sup> France Gélinas:** Sure.

**The Chair (Mr. Lorenzo Berardinetti):** Would you please come forward and identify yourself for the record, please?

**Ms. Fannie Dimitriadis:** My name is Fannie Dimitriadis. I'm legal counsel with the Ministry of Health and Long-Term Care.

There is a website currently that the government has established, a regulatory registry. It's my understanding that, pursuant to government policy, proposed regulations are to be posted there for a period of 45 days.

**M<sup>me</sup> France Gélinas:** Ah, 45 days.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this motion?

**M<sup>me</sup> France Gélinas:** She skipped away really quickly. Let's say that they have to post on this website for 45 days. I'm guessing that people can make comment. Does the relevant policy also mean that they have to take the comments into account before making final policies?

**Ms. Fannie Dimitriadis:** I'm not comfortable answering that because I haven't looked at it in the past few weeks, but from what I understand, when a regulation is posted, information as to whom comments should be provided is to be set out on the website as well. So, without saying for certain, I guess the assumption is that comments would be taken into consideration.

**M<sup>me</sup> France Gélinas:** But we don't know for a fact?

**Ms. Fannie Dimitriadis:** I'm not comfortable saying for certain without having it in front of me.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this motion?

**M<sup>me</sup> France Gélinas:** Does anybody else know any more? There are lots of people sitting here.

**The Chair (Mr. Lorenzo Berardinetti):** That's the answer for now.

We'll vote on the motion. All those in favour of the government motion? Opposed? That carries.

There is another amendment to section 15. It's an NDP motion on page 6(a). Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that section 15 of the bill be amended by adding the following subsection:

"Public consultation



“(2) The minister shall not make a regulation under this section unless a public consultation process that follows the procedure set out in section 16, with any necessary modifications, has been followed.”

What this talks to is, whenever there is to be a change to a regulation or a modification, a mandatory public consultation takes place. It makes it mandatory for the public consultation to take place.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this motion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** We will be opposing this particular motion. The previous motion voted on, I think, accomplishes what the government intends to do and outlines the whole regulation-posting process and policy process. So we'll be voting against this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Except for the tiny, weenie, little issue that nobody knows what it means, nobody knows for how long and nobody knows if any public consultations that would bring forward comments from the public have to be taken into account when making your final recommendations. So I just want you to know that there's still a lot of little issues with that bill that could have been corrected and improved with this amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? So we'll vote on the motion. All those in favour of the motion? Opposed? That does not carry.

Shall section 15, as amended, carry? All those in favour? Opposed? Carried.

We'll move to section 16. The first motion there is on page 6(b), and it's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subsection 16(2) of the bill be amended by striking out “section” in the portion before clause (a) and substituting “act.”

This is simply a housekeeping amendment that ensures that any regulations that are made pertain to the act in its entirety.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this? Mr. Balkissoon.

**Mr. Bas Balkissoon:** Unfortunately, I totally disagree and will be voting against this. The motion voted on previously, the government motion, I think clarifies our position on the minister's consultation for regulations, policy, posting etc. So I think it clarifies what we're going to be doing. We can't support this particular motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? So we'll take a vote on the motion. All those in favour of the motion? Opposed? That does not carry.

We'll go to the next motion. It's also a PC motion, on page 6(c). Ms. Elliott.

**Mrs. Christine Elliott:** I move that clause 16(2)(a) of the bill be struck out and the following substituted:

“(a) the minister has published a notice of the proposed regulation in the Ontario Gazette, on the website of the ministry and in any other format the minister considers advisable.”

Again, this is just to conform to a more general standard and to ensure that the regs are gazetted and that all means possible to communicate these regs be undertaken.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this motion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** We cannot support this motion as we've already adopted what the ministry will be doing. We'll be following those means of posting on the website. We believe this is sufficient. It just follows the normal practice as it happens today.

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**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? None? We'll take the vote. All those in favour of the motion? Opposed? That doesn't carry.

We'll go to the next motion, page 6(d); it's a PC motion. Ms. Elliott.

**Mrs. Christine Elliott:** I move that subsection 16(4) of the bill be amended by striking out “30 days” and substituting “60 days.”

This has been recommended by the Ontario Hospital Association to allow more time for the development of regulations and for input to be obtained.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Mr. Balkissoon.

**Mr. Bas Balkissoon:** This does not follow the current practice; we'll be adopting the current practice. I think the act requires a minimum of 30 days, and this is in line with all other practices that exist today.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I disagree with this. There are many acts under the Ministry of Health where the minimum time where a consultation has to take place is 60 days. It actually varies. This was the first time I've ever heard of the 45 days, but in many of the acts that exist we talk about 30 days; some talk about 60 days.

If the consultation period for the change to the generic drugs process has taught us anything, it was that the 30-day consultation was not sufficient; it has actually been expanded. That 60-day consultation, given the broad element of the health care system that this bill covers, I don't think would be out of order, and is something that should be considered and certainly not something that can be turned down because the 30 days is the norm, because this is not true. The 30 days is not the norm.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Elliott.

**Mrs. Christine Elliott:** Just to add to Ms. Gélinas's comments, there are other statutes, of course, that do provide for the 60-day consultation period, including the Commitment to the Future of Medicare Act, the LHIN act and the Personal Health Information Protection Act, so there certainly is precedent for a 60-day consultation period.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll vote on the motion. All those in favour? Opposed? That doesn't carry.

Shall section 16 carry? All those in favour? Opposed? Carried.



The next page, page 7, is a government motion. Mr. Balkissoon.

**Mr. Bas Balkissoon:** I move that the bill be amended by adding the following section:

“Amendment

“16.1(1) This section only applies if Bill 65 (Not-for-Profit Corporations Act, 2010), introduced on May 12, 2010, receives Royal Assent.

“References

“(2) References in this section to provisions of Bill 65 are references to those provisions as they appeared in the first reading version of the bill.

“(3) On the later of the day subsection 16(1) of this act comes into force and the day subsection 210(1) of Bill 65 comes into force, clause 16(1)(r) of this act is amended by striking out ‘Corporations Act’ and substituting ‘Not-for-Profit Corporations Act, 2010’”.

This is just a technical amendment. It’s something we’re moving just to make sure we have it correct.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We’ll vote on the motion. All in favour? Opposed? Carried.

There are no amendments to section 17, so I’ll put the question forward. Shall section 17 carry? All those in favour? Opposed? Carried.

The next motion is on page 7(a); it’s an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** We’re in section 17.1 of the bill, which deals with related amendments, and specifically to the Commitment to the Future of Medicare Act, 2004.

I move that the bill be amended by adding the following section:

“Freedom of Information and Protection of Privacy Act

“17.1 The definition of ‘institution’ in subsection 2(1) of the Freedom of Information and Protection of Privacy Act is amended by striking out ‘and’ after clause (a.1) and by adding the following clauses:

“(a.2) a hospital within the meaning of the Public Hospitals Act,

“(a.3) a private hospital within the meaning of the Private Hospitals Act that receives public funding, and.”

This part of the bill talks about—

**The Chair (Mr. Lorenzo Berardinetti):** Before you go further, I have to rule that out of order. The reason is that you’re trying to open an act which is not before us, the Freedom of Information and Protection of Privacy Act. We can’t amend that unless we get unanimous consent from the committee. So I’m going to rule that out of order, subject to unanimous consent. Do we have unanimous consent?

**Mr. Bas Balkissoon:** No. The government is not supportive of this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Fine. It’s ruled out of order.

We’ll move on to the next motion on page 7(b); it’s an NDP motion. Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** I move that the bill be amended by adding the following section:

“Freedom of Information and Protection of Privacy Act

“17.1 Section 2 of the Freedom of Information and Protection of Privacy Act is amended by adding the following subsection:

“Hospitals

“(5) Hospitals are institutions for the purposes of this act.”

**The Chair (Mr. Lorenzo Berardinetti):** I’m sorry to interject, but for the same reasons I’m going to have to rule that out of order, because you’re making reference to an act that’s not in front of us today, again subject to getting unanimous consent to deal with that other act. Do we have unanimous consent?

**Mr. Bas Balkissoon:** No.

**The Chair (Mr. Lorenzo Berardinetti):** I heard a no here, so unfortunately that’s out of order.

We’ll move on to the next motion. Actually, before I do that, there are no amendments to section 18, so shall section 18 carry? Those in favour? Opposed? Carried.

We’ll move to section 19. There’s an NDP motion on page 7(c). Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Given that section 19 opens up the Public Hospitals Act, I move that section 19 of the bill be amended by adding the following subsection:

“(0.1) Section 32 of the act is amended by adding the following subsection:

“Nurse practitioners

“(5) Despite anything in a regulation made under this act, a nurse practitioner may authorize the admission, treatment, transfer and discharge of hospital in-patients.”

**The Chair (Mr. Lorenzo Berardinetti):** I’m going to have to interject and I’m going to give you my reason. It’s out of order because—I’m looking at the bill—under section 19 the only section that’s opened under the Public Hospitals Act is section 34, and you are trying to amend section 32, I think it is, which is not in front of us. Only section 34 can be amended, again subject to unanimous consent. I’m just following the rules.

**M<sup>me</sup> France Gélinas:** Can I have unanimous consent?

**Mr. David Zimmer:** No way.

**Mr. Bas Balkissoon:** We dealt with this issue under Bill 179, so at this time I cannot agree to unanimous consent.

**The Chair (Mr. Lorenzo Berardinetti):** We’ll move on to the next—one second here; I have to find my place here. It’s still section 19. There’s a PC motion on page 7(c)(i). Ms. Elliott.

**Mrs. Christine Elliott:** I move that section 19 of the bill be amended by adding the following subsection:

“(2) Section 34 of the act is amended by adding the following subsection:

“Receipt of report not a bar to member

“(8) The receipt by the board of a report under subsection (7) shall not be construed to mean that a member of the board has taken part in the investigation



or consideration of the subject matter of the report before any hearing held under section 39.”

This has really been added just to clarify that it would not disqualify a board member from fulfilling their obligations under section 34. It was recommended by the Ontario Hospital Association.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this? Mr. Balkissoon.

**Mr. Bas Balkissoon:** While we agree with the intent of this motion, the government won't be supporting this motion. We'll be supporting our own motion, which will come on page 8.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on this? We'll take a vote on this. All those in favour of the motion? Opposed? That doesn't carry.

We have just over five minutes left. I'm at the committee's disposal. Should we take a recess so we can go vote? We'll recess and return after this vote in the House. The committee is now recessed.

*The committee recessed from 1920 to 1930.*

**The Chair (Mr. Lorenzo Berardinetti):** The committee is back in session.

The motion next to be considered is on page 7(d). It's an NDP motion. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** This is where we test the theory: Does anybody believe in the faint-hope clause? So here we go.

I move that section 19 of the bill be amended by adding the following subsection:

“(2) Sections 35 to 37 of the act are repealed and the following substituted”—and we call this “IPAC,” and it stands for interprofessional advisory committee:

“IPAC

“35. Every board shall establish an interprofessional advisory committee (IPAC) comprising proportional membership to represent all regulated health professionals involved in interprofessional practice in the hospital setting.”

**The Chair (Mr. Lorenzo Berardinetti):** I have to interrupt, and I do apologize, and please don't take it personally. We're amending a section of the Public Hospitals Act that is not open in this bill, similar to what happened before. Sections 35 to 37 are not in front of us in this part of the bill, so I have to rule it out of order.

**M<sup>me</sup> France Gélinas:** That's where the faint-hope clause comes into play. I ask for unanimous consent.

**The Chair (Mr. Lorenzo Berardinetti):** Do we have unanimous consent?

**Mr. Bas Balkissoon:** I can't agree, Mr. Chair. The intent is okay, but sorry, we can't—we'll be voting on the next motion, which I think will—

**M<sup>me</sup> France Gélinas:** All hope is gone.

**The Chair (Mr. Lorenzo Berardinetti):** So that's ruled out of order.

We'll move on to page 8. This is a government motion. Mr. Balkissoon?

**Mr. Bas Balkissoon:** I move that section 19 of the bill be amended by adding the following subsection:

“(2) Section 39 of the act is amended by adding the following subsection:

“Exception

“(9) Despite subsection (4), no member of a board shall be disqualified from participating as a member of the board in a hearing held under subsection (1) by virtue of the information contained in a written report received under subsection 34(7).”

**The Chair (Mr. Lorenzo Berardinetti):** With the greatest respect, this is also out of order, for the same reasons given before. You're trying to amend a section of an act, section 39, that is not in front of us today in this part of the act—

**Mr. Bas Balkissoon:** Mr. Chair, I believe this motion accomplishes what the previous one was trying to do, but the wording is better suited to the government. I'll ask the members for unanimous consent.

**M<sup>me</sup> France Gélinas:** How long do we have before we have to respond?

**The Chair (Mr. Lorenzo Berardinetti):** I don't think it's in the rules. That's a good question.

**Mr. Bas Balkissoon:** Unanimous consent is requested.

**The Chair (Mr. Lorenzo Berardinetti):** It has been requested. Do we have—

**M<sup>me</sup> France Gélinas:** Sure.

**Mrs. Christine Elliott:** Sure. Why not?

**The Chair (Mr. Lorenzo Berardinetti):** All right. Okay. Agreed? Agreed.

Go ahead. You've finished—

**Mr. Bas Balkissoon:** Yes, finished.

**The Chair (Mr. Lorenzo Berardinetti):** Any other comments?

**M<sup>me</sup> France Gélinas:** I would add that I don't think the wording is that much better, but I'm ready to live with it.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote. All those in favour? Opposed? That carries.

Shall section 19, as amended, carry? All those in favour? Opposed? Carried.

Shall section 20 carry? All those in favour? Opposed? Carried.

We'll move on to section 21. Shall section 21 carry? All those in favour? Opposed? Carried.

We've only got two motions left: with regard to the preamble. Page 9 is a PC motion. Ms. Elliott?

**Mrs. Christine Elliott:** I move that the preamble to the bill be amended by amending the third full paragraph of the preamble that is after the introductory line so that it reads as follows:

“Recognize that a high-quality health care system is one that is accessible, appropriately resourced, effective, efficient, equitable, integrated, patient-centred, population-health-focused, and safe.”

**The Chair (Mr. Lorenzo Berardinetti):** I have to interject again, and I do apologize. I'm going to give you a reason why I'm going to rule this out of order, and that is because you cannot amend a preamble after second reading unless it's rendered necessary by amendments made to the bill. So this would be out of order.

**Mrs. Christine Elliott:** May I make a submission in that respect, Mr. Chair? I would submit that it is necessary that it be properly resourced and that it is necessary



in order to carry out the intentions of the act. Therefore, it is in order.

**The Chair (Mr. Lorenzo Berardinetti):** I've ruled it out of order, though.

Page 10, a PC motion. Ms. Elliott?

**Mrs. Christine Elliott:** I have a feeling this is going to be the same answer, but I'll move it anyway.

I move that the preamble to the bill be amended by adding the following paragraph immediately after the paragraph that begins "Recognize the importance....":

"Recognize that the Registered Nurses' Association of Ontario's evidence-based clinical and healthy work environment best practice guidelines are an example of improving quality of care through best available scientific evidence."

**The Chair (Mr. Lorenzo Berardinetti):** Sorry to cut you off, but I'm going to have to rule it out of order for

the same reason, which is that you cannot amend a preamble after second reading unless rendered necessary by amendments made to the bill. So that's ruled out of order.

The question is: Shall the preamble carry? All those in favour? Opposed? Carried.

Shall the title of the bill carry? All those in favour? Opposed? Carried.

Shall Bill 46, as amended, carry? All those in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? Opposed? Carried.

Shall I move adjournment?

*Interjections.*

**The Chair (Mr. Lorenzo Berardinetti):** The committee is adjourned.

*The committee adjourned at 1937.*











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Mr. Lorenzo Berardinetti (Scarborough Southwest / Scarborough-Sud-Ouest L)

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Mr. David Zimmer (Willowdale L)

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Mr. Bas Balkissoon (Scarborough–Rouge River L)

M<sup>me</sup> France Gélinas (Nickel Belt ND)

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#### **Staff / Personnel**

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Ms. Catherine Macnaughton, legislative counsel

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## Legislative Assembly of Ontario

Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 30 September 2010

# Journal des débats (Hansard)

Jeudi 30 septembre 2010

**Standing Committee on  
Justice Policy**

Organization

**Comité permanent  
de la justice**

Organisation

Chair: Lorenzo Berardinetti  
Clerk: Trevor Day

Président : Lorenzo Berardinetti  
Greffier : Trevor Day



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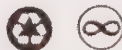
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Thursday 30 September 2010

Jeudi 30 septembre 2010

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*The committee met at 0900 in committee room 1.*

ELECTION OF VICE-CHAIR

**The Clerk of the Committee (Mr. Trevor Day):** Honourable members, it is my duty to call upon you to elect an Acting Chair. Are there any nominations?

**Mrs. Liz Sandals:** I nominate Mr. Zimmer.

**The Clerk of the Committee (Mr. Trevor Day):** Mr. Zimmer, do you accept? Please take the chair.

**The Acting Chair (Mr. David Zimmer):** Well, thank you. I'd like to make a few remarks.

The first order of business is the election of a Vice-Chair. Are there any nominations? Yes, Mr. Rinaldi.

**Mr. Lou Rinaldi:** I will nominate Reza Moridi.

**The Acting Chair (Mr. David Zimmer):** Okay, and that's in absentia and it's fine.

**Mr. Lou Rinaldi:** And he has accepted.

**The Acting Chair (Mr. David Zimmer):** Secunder? No? We don't need a seconder. All in favour? Put your hand up, please. All in favour? Thank you, that's unanimous.

The meeting is adjourned.

*The committee adjourned at 0902.*



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# Official Report of Debates (Hansard)

Thursday 25 November 2010

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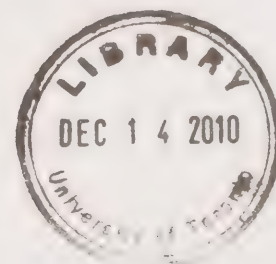
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## Standing Committee on Justice Policy

Ticket Speculation  
Amendment Act, 2010

## Comité permanent de la justice

Loi de 2010 modifiant la Loi  
sur le trafic des billets  
de spectacle



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STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 25 November 2010

Jeudi 25 novembre 2010

*The committee met at 0928 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Lorenzo Berardinetti):** Good morning. Welcome to the Standing Committee on Justice Policy. The first item on the agenda is the report of the subcommittee on committee business. Mr. Mauro.

**Mr. Bill Mauro:** Your subcommittee met on Thursday, November 18, 2010, to consider the method of proceeding on Bill 172, An Act to amend the Ticket Speculation Act, and recommends the following:

(1) That, as per the order of the House, the committee meet in Toronto on Thursday, November 25, 2010, for the purpose of holding public hearings.

(2) That the committee clerk, with the authorization of the Chair, post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and the Canada NewsWire.

(3) That interested parties who wish to be considered to make an oral presentation contact the committee clerk by 12 noon on Wednesday, November 24, 2010.

(4) That witnesses be scheduled on a first-come, first-served basis.

(5) That groups and individuals be offered 10 minutes for their presentation. This time is to include questions from the committee.

(6) That representatives from eBay, the Ottawa Senators, Ticketmaster and StubHub be invited to appear before the committee and provide a presentation of up to 30 minutes. This time is to include questions from the committee.

(7) That the deadline for written submissions be 5 p.m. on Friday, November 26, 2010.

(8) That the research officer provide the committee with a summary of presentations by 12 noon on Monday, November 29, 2010.

(9) That, as per the order of the House, proposed amendments be filed with the committee clerk by 5 p.m. on Monday, November 29, 2010.

(10) That, as per the order of the House, the committee meet for the purpose of clause-by-clause consideration of the bill on Wednesday, December 1, 2010, and Thursday, December 2, 2010.

(11) That the committee clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary

arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mr. Peter Kormos:** Carried.

**The Chair (Mr. Lorenzo Berardinetti):** There's a motion by Mr. Kormos to adopt the report. All in favour? Opposed? Carried.

TICKET SPECULATION  
AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT LA LOI  
SUR LE TRAFIC DES BILLETS  
DE SPECTACLE

Consideration of Bill 172, An Act to amend the Ticket Speculation Act / Projet de loi 172, Loi modifiant la Loi sur le trafic des billets de spectacle.

## TICKETMASTER CANADA

**The Chair (Mr. Lorenzo Berardinetti):** We'll call up our first presenter, which is Ticketmaster Canada. I have here Tom Worrall and Christine Hall. Good morning and welcome.

**Mr. Tom Worrall:** Thank you. Good morning.

**The Chair (Mr. Lorenzo Berardinetti):** You have 30 minutes for your presentation; that's half an hour. If you finish earlier, then we'll split the remaining time of that half hour for questions.

**Mr. Tom Worrall:** Perfect. Okay. I think we'll be about 11 or 12 minutes, and then lots of time for questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you.

**Mr. Tom Worrall:** My name is Tom Worrall and I am the chief operating officer for Ticketmaster Canada. With me today is Christine Hall, our senior client development director.

We appreciate the opportunity to come here today to speak with you and, hopefully, help advance your understanding of the industry and the real issues for consumers. And there are real issues, issues that we think ought to be addressed. However, I can say without reservation that this bill, as it is currently written, does nothing whatsoever to protect the ticket-buying public.

The bill is based on a fundamental misunderstanding of the services we provide and how this industry works.



Instead of protecting the public, it will actually reduce competition in the resale marketplace and tilt the playing field away from the consumer. At the same time, the bill does nothing to address the legitimate concerns of the ticket-buying public. I will speak to those concerns in a moment.

Ticketmaster is an industry leader in the technology and processes that offer the ticket buyer fast, fair and secure access to tickets. Ticketmaster's system can process more than 10,000 tickets per minute, thus meeting consumer demand for the most popular sports and entertainment events.

Ticketmaster provides two distinct services. Ticketmaster's computerized ticketing system enables initial offerings to the public of tickets owned by entertainers, promoters, sports teams and venues. Our service provides an opportunity for people to purchase tickets online, by phone or at one of a number of retail locations. TicketsNow, on the other hand, is an online ticket resale marketplace through which individuals and professional brokers offer event tickets they own for resale to consumers.

In either case, it is important to note that Ticketmaster Canada does not own any of the tickets offered through its Ticketmaster agency or the TicketsNow resale site. We simply provide the platform for the transaction.

Let me restate that, because it is an absolutely critical point: The tickets that Ticketmaster Canada offers for sale to the public are not owned by Ticketmaster Canada. They belong to our clients: the entertainers, promoters, sports teams and venues. These are the rights holders of tickets and, as such, they are the ones who have the right to retain tickets to sell or distribute the tickets as fits their consumer offering or marketing plans. They choose what and how they sell or distribute the tickets, and they set the prices for those tickets.

Ticketmaster Canada acts as an agent on their behalf and makes tickets available, as directed by our clients, to the general public. Moreover, as their agent, we have an obligation to make those tickets available to their customers—the fans—as they direct.

The tickets offered for sale on the TicketsNow website are not owned or placed on TicketsNow by Ticketmaster Canada. They are owned by individual sellers and professional brokers who choose to list tickets on that site. But Bill 172 is built entirely around the assumption that a primary seller, Ticketmaster Canada, will withhold tickets from the public and secretly spirit them away to its resale site to sell at a higher price for profit.

We cannot and we do not divert tickets between Ticketmaster Canada and TicketsNow or provide preferential access to primary market tickets to TicketsNow. They are simply not our tickets; they don't belong to us. We do not divert or resell them somewhere else. Again, let me be absolutely clear: The tickets that Ticketmaster Canada offers for sale on behalf of its clients, it does not own and it does not divert.

It's also important to keep in mind that there are many, many resale marketplaces out there, from dedicated websites like TicketsNow and StubHub to online

classified sites like craigslist and Kijiji to newspaper classified ads that you might find in any community across the province. If you were to look, you will find tickets to the same sporting or entertainment events on all of these—and not just the one that happens to be affiliated with a primary ticket seller.

Whether or not there is a relationship between these sites, the primary seller has nothing to do whatsoever with where the tickets come from. Just this morning, I went online and I found some tickets for Robert Plant's sold-out show available on all of these sites that I have just mentioned. Clearly, a relationship between a resale marketplace and the primary seller is not a pre-condition for these sites having the ability to list tickets for sale. The fact is, in addition to individuals selling tickets to events they might not be able to go to, there is an entire speculative ticket broker industry out there that is able to get access to tickets without Ticketmaster Canada's help.

We understand that some people are skeptical about this when they see tickets for high-demand shows sell out quickly, yet can find plenty of seats available on resale sites. Clearly, they have come to the incorrect conclusion that tickets had simply been pulled off the primary market by a ticket seller and placed on a resale market, whether on a site they own or otherwise.

Let me also take a moment to address some of the confusion out there about how it is that tickets to an event can sell out so quickly, which I believe has led some people to improperly conclude that tickets are being diverted.

First of all, it is important to understand that some tickets may not be made available for sale to the general public. The owners of the tickets—that is, the venues, teams, promoters and artists—have the right to decide how many tickets they are going to sell or distribute according to their own business needs. Ticketmaster Canada, acting as their agent, makes available all of the tickets that the client chooses to offer for sale to the public. This does not mean that we are selling every seat in the venue. What goes on sale is the decision of our client, the holder of the right to the ticket, and not Ticketmaster Canada.

Secondly, I would remind you that Ticketmaster's ticketing system can process more than 10,000 tickets per minute. Consequently, popular shows do sell out in mere minutes. For example, if we have 16,000 tickets available for a high-demand concert, and each purchaser orders four tickets, then we are sold out after only 4,000 orders, even though there are many more fans also wanting to buy tickets. In a situation like that, every one of those tickets could conceivably be snapped up in that first minute.

I appreciate the government's interest in protecting consumers. We also have an interest in this, and we have acted on it. Ticketmaster invests heavily in consumer protection through the development of innovative technology, and is a leader in purchaser information security, buyer guarantee, fraud protection, and crackdowns on brokers purchasing en masse through online software



robots. We have helped law enforcement agencies and government authorities in their efforts to understand this industry and protect the ticket-buying public. We don't just talk the talk.

There are legitimate issues, but they are not being addressed, and I'd like to give you some examples.

Strengthening penalties for the selling of counterfeit or fraudulent tickets: From time to time, people buying tickets from a reseller will discover, usually at the venue itself, that the ticket they purchased is not a real ticket. It's a clever fake, a knock-off, and the disappointed fan is turned away at the door. Why doesn't the bill attempt to strengthen the penalties for this offence that are already on the books but rarely enforced?

Incidentally, I would note that a ticket sold initially by Ticketmaster Canada and then resold by a third party through TicketsNow can actually be authenticated, thus enhancing consumer protection in a way that nobody else can. It's perhaps ironic, therefore, that the resale site that is best positioned to guarantee that a ticket purchased is actually a real ticket is the very site that is being targeted by the legislation.

Section seating: Another issue—

**Mr. Peter Kormos:** Excuse me, Chair. Could you please ask people to stop using their BlackBerrys while people are making presentations to the committee?

**The Chair (Mr. Lorenzo Berardinetti):** That's a fair request.

**Mr. Tom Worrall:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Thank you, Mr. Kormos.

**Mr. Tom Worrall:** Section seating: Another issue for consumers is ensuring that they get what they paid for. If a reseller advertises that they have tickets in a certain section, they ought to be able to deliver. Unfortunately, that is not always the case, and the ticket purchaser finds that they have bought tickets for seats that simply were not as good as they were promised. Does the bill do anything about this? No, it does not.

Pre-listing on resale sites: We know that the practice of some resale sites offering tickets for sale before they actually have the tickets in hand is a concern to some people. We believe that any company operating in this space must adhere to clear rules so that the consumer knows what to expect when they make their purchase. I would note that the bill does nothing to address this.

Purchases by automated robots: We support the public's view that every ticket buyer deserves an equal chance when purchasing tickets. Ticketmaster Canada goes to extraordinary efforts and expense—and remains committed to protecting the integrity of our site for the benefit of our consumers and clients—to thwart the unscrupulous individuals who use automated programs to unfairly and illegally cut to the front of the line by launching multiple, automated ticket requests at the time of high-demand events going on sale. In fact, just last week in the United States, three men pled guilty to charges that they had been cheating regular fans by using sophisticated computer technology to purchase millions

of dollars of tickets ahead of everyone else, then turning around and selling them for a profit. Ticketmaster Canada heavily invests in developing new technology, processes and legal efforts to protect consumers. A number of jurisdictions have introduced legislation and enforcement to deal with this issue, yet Ontario has not yet acted. Why not?

Let's recap. We have a bill that is designed to stop a primary ticket seller—in this case, Ticketmaster Canada—from allowing an associated resale site to make tickets available for the same event for which the primary seller is making tickets available. As I understand it, the Attorney General's intent is to prevent a primary seller from withholding tickets and diverting tickets to be sold at a higher price for profit on a resale site that it also owns.

As I have stated, this can't and does not happen. So Ticketmaster Canada, a legal and legitimate business, is being punished for something it does not do. We also know that the bill doesn't introduce any new measures to protect the ticket-buying public from those resellers looking to defraud the public.

0940

Given that the bill does nothing to advance consumer protection, and in fact weakens it, why is the bill before the Legislature at all? On that question, perhaps it's best that I leave it to you to speculate.

I'd be pleased to take any questions at this time.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Worrall. We have about 15 minutes, so we're going to split the time amongst the three parties and we'll begin with the Conservative Party if there are any questions. Mr. Chudleigh?

**Mr. Ted Chudleigh:** Thank you for coming to the committee, Mr. Worrall. I'd like to clarify a couple of points in your presentation if I could.

You mentioned that TicketsNow sells authenticated or valid tickets and they can validate that the ticket that they are reselling is a valid ticket to the venue. Are they the only organization reselling tickets in Ontario that can do that?

**Mr. Tom Worrall:** No, they're not. There's probably 99 other resale sites that are also reselling tickets, but none can authenticate the ticket from the primary seller.

**Mr. Ted Chudleigh:** So TicketsNow are the only ones that can validate and make sure that what they're selling is an authentic ticket to the venue?

**Mr. Tom Worrall:** That's correct.

**Mr. Ted Chudleigh:** Which is a huge consumer protection.

**Mr. Tom Worrall:** Yes. I should clarify: Provided the original ticket was sold on Ticketmaster, we can verify that it's a valid ticket.

**Mr. Ted Chudleigh:** Thank you. Again, you were fairly clear. The bill suggests that the association between a primary site and a resale site is essential to issuing diverted tickets. Is that actually the case?

**Mr. Tom Worrall:** No. Because we don't own the ticket—any primary ticket seller, whether it's Ticket-



master Canada, Mirvish Productions, CapitalTickets.ca in Ottawa, they do not own the tickets as a ticket agency. It's owned by the entertainer, the sports team or the venue.

**Mr. Ted Chudleigh:** You also mentioned that you don't necessarily get all the tickets for a venue. I understand that a portion of the tickets may go to a promotional basis. Are there other places these tickets might go to?

**Mr. Tom Worrall:** Mainly, it's held for the venue; the artist has needs, and the promoter. I noticed in the scripts there was a discussion around Leonard Cohen. Leonard Cohen was in small venues, and many tickets were held back by the artist himself. We had very few tickets available to sell.

**Mr. Ted Chudleigh:** If this legislation is passed, what would stop a primary ticket seller from diverting tickets—if he was able to divert tickets, as is supposed by the government—to another secondary seller? If TicketsNow no longer exists, what would stop a primary ticket seller from diverting tickets to, say, StubHub?

**Mr. Tom Worrall:** That's a very good question. Nothing. The law talks about ownership or relationship. But I want to clarify: If they were able to divert, and they're not, so—

**Mr. Ted Chudleigh:** So if the government is suggesting that this diversion of tickets is taking place, this bill would do nothing to stop it from taking place with some other reseller? This bill would have no purpose.

**Mr. Tom Worrall:** Right. That's correct.

**Mr. Ted Chudleigh:** If a primary ticket seller like Ticketmaster were to divert tickets to its secondary site, what would be the intentional consequences of that for your business? Would you not be breaking an agreement with your clients?

**Mr. Tom Worrall:** It would be catastrophic. We would not be in business. It runs counter to the contract that we have with our ticket rights providers: venues, artists, promoters.

**Mr. Ted Chudleigh:** If I were the venue and I thought that my primary ticket seller was diverting tickets, in essence, that primary ticket seller would be taking money out of my pocket. Do I have that right?

**Mr. Tom Worrall:** Absolutely right.

**Mr. Ted Chudleigh:** And therefore, I would never hire you to distribute my tickets again.

**Interjection:** That doesn't make sense.

**Mr. Tom Worrall:** No, it actually does.

**The Chair (Mr. Lorenzo Berardinetti):** Excuse me; we'll all get a chance to ask questions.

**Mr. Tom Worrall:** That's absolutely correct. We would be out of business. We would have no contracts to fulfill.

**Mr. Ted Chudleigh:** I think I would like to ask our next witness questions.

**The Chair (Mr. Lorenzo Berardinetti):** You have about a minute left, just to let you know.

**Mrs. Christine Elliott:** Okay. Thank you very much today for appearing today. You've really clarified a lot of

issues for us. Have you had a chance to sit down and speak with the Attorney General's office about your, in my view, very legitimate concerns with respect to this bill?

**Mr. Tom Worrall:** As it relates to the introduction of this bill, no. We've had no—

**Mrs. Christine Elliott:** So you haven't had the opportunity for any input—

**Mr. Tom Worrall:** None whatsoever.

**Mrs. Christine Elliott:** —to discuss the issues we've discussed today.

**Mr. Tom Worrall:** No.

**Mrs. Christine Elliott:** Okay.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you—

**Interjection:** Do you know if StubHub or eBay have had that opportunity?

**Mr. Tom Worrall:** I don't know that.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the NDP. Mr. Kormos?

**Mr. Peter Kormos:** Thank you, folks. Now, bear with me, because I'm from small-town Ontario, okay? I'm not a Torontonians.

**Interjection:** Don't believe him.

**Mr. Peter Kormos:** No, this is confusing to me. We've got Ticketmaster and TicketsNow. What's the relationship between Ticketmaster and TicketsNow?

**Mr. Tom Worrall:** We're owned by the same company.

**Mr. Peter Kormos:** So TicketsNow is what the Attorney General wants to call a reseller?

**Mr. Tom Worrall:** What it is is a resale marketplace. Think of the Toronto Star: You go to the Toronto Star classified ads and you list your event for sale, your tickets for sale—or your furniture or whatever else you're selling.

**Mr. Peter Kormos:** So TicketsNow is just a host?

**Mr. Tom Worrall:** Exactly. It's an online marketplace for resale.

**Mr. Peter Kormos:** Do vendors on the TicketsNow website identify themselves?

**Mr. Tom Worrall:** They identify themselves to TicketsNow.

**Mr. Peter Kormos:** Yes, but what about the purchaser?

**Mr. Tom Worrall:** The purchaser is not interested in who's selling them; they're just interested in getting the tickets.

**Mr. Peter Kormos:** So you're saying that TicketsNow is not a reseller in and of itself?

**Mr. Tom Worrall:** Correct.

**Mr. Peter Kormos:** And that anybody who suggests otherwise is not telling the truth?

**Mr. Tom Worrall:** That's right. It's a resale marketplace. It does not control tickets. It does not own tickets. It provides a marketplace to resell.

**Mr. Peter Kormos:** I don't know if you folks read Hansard or not. You know I'm not a fan of the government and you know I'm not fan of this legislation, but it

seems to me that there was reference made to a situation down in New Jersey—

**Mr. Tom Worrall:** Correct.

**Mr. Peter Kormos:** Was it TicketsNow that paid the Springsteen organization some \$300,000 or so in compensation? What's the story?

**Mr. Tom Worrall:** Yes, let me explain.

**Mr. Peter Kormos:** Please.

**Mr. Tom Worrall:** Bruce Springsteen, in New Jersey, is probably one of the hottest shows there is ever—

**Mr. Peter Kormos:** Yes, we know. Let's get to the point.

**Mr. Tom Worrall:** When the event went on sale, there was a computer malfunction. It involved Visa, the payment processing, and the system did not work. It went down, basically.

**Mr. Peter Kormos:** What was going on? Was TicketsNow buying tickets from Ticketmaster?

**Mr. Tom Worrall:** No, it wasn't.

**Mr. Peter Kormos:** Well, what's the story? How could that happen? I don't understand.

**Mr. Tom Worrall:** There are tickets listed on the resale site prior to tickets going on sale on all the sites.

**Mr. Peter Kormos:** So this is like the futures market?

**Mr. Tom Worrall:** Correct.

**Mr. Peter Kormos:** And what if this reseller can't get the tickets? They're advertising tickets and selling them like on the futures market—

**Mr. Tom Worrall:** Then they don't fulfill. They're advertising on the fact that they believe they can actually access tickets.

**Mr. Peter Kormos:** Okay.

**Mr. Tom Worrall:** Where do they access them? They access them from season ticket holders who resell their tickets. These bots, these robotic programs that jackhammer our site to access tickets—

**Mr. Peter Kormos:** Because you see, if what you say is the case, this bill doesn't bother you at all. If TicketsNow is not a reseller, if it's merely a host, then the bill is irrelevant.

**Mr. Tom Worrall:** Well, what this—

**Mr. Peter Kormos:** I consider the bill irrelevant anyways, but the bill's irrelevant.

**Mr. Tom Worrall:** I kind of agree, but where the language of this bill is bothersome to us is because we have a related company, that means that company cannot participate in the resale market.

**Mr. Peter Kormos:** No, it doesn't say that. It says that that related company cannot act as a reseller. Do you understand what I'm saying? Help me. It's early in the morning. As I say, I'm from Welland. Do you know where Welland is? It's a small industrial town down in Niagara.

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**Mr. Tom Worrall:** Yeah. Her son's team plays them on Saturday nights.

**Mr. Peter Kormos:** Yeah, great. But help me. I'm trying really hard to understand.

**Mr. Tom Worrall:** I guess it's the definition of "reseller." I'd like a better definition in the bill's language of what it is you're actually trying to accomplish.

**Mr. Peter Kormos:** No, because it's been clear in the debate that any number of other identified host websites, which are simply conduits, media, a medium for people who want to sell their tickets, are not affected, are not impacted. In fact, the suggestion has been that it's all about Ticketmaster and TicketsNow. Fair enough. I find that in and of itself peculiar. But if TicketsNow is merely a host site, it's not a reseller. So then you could care less whether this bill passes.

**The Chair (Mr. Lorenzo Berardinetti):** There's one minute left.

**Mr. Tom Worrall:** If you're telling me that that's the case, and you define that in the language, then we're good with that. We do not resell tickets.

**Mr. Peter Kormos:** Well, there. All the lobbying with Mr. Chudleigh, then, was to no avail. Jeez.

Thank you kindly, folks.

**Mr. Tom Worrall:** I'm not convinced it's clear.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Kormos. We'll move on to the Liberal Party for questioning. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** First of all, I'd like to clarify for the committee. In fact, Omar met with Ticketmaster several times prior to and during the introduction of this bill, so there were discussions that were going on. Secondly, the clarification vis-à-vis the agreement with New Jersey would certainly help to clarify the situation. I thank Mr. Kormos; I think he's identified this well.

I just wanted to state that this bill applies to any related primary and secondary ticket sellers. It's not specific to Ticketmaster; it's specific to any of those. I just want those clarifications for the committee.

**Mr. Tom Worrall:** Could I respond to that?

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Mauro.

**Mr. Bill Mauro:** Thank you very much for coming today. I just have one or two questions. One of my points has been made already, but I will go over that in a second.

Just to be clear, TicketsNow gets its tickets from the owner of the ticket. That could be the sports team, venue or entertainer. So they're going to give you some, and they're going to give them some?

**Mr. Tom Worrall:** No.

**Mr. Bill Mauro:** Okay. So they go to you, and then how do they get to TicketsNow? They're resold?

**Mr. Tom Worrall:** No. They are both wrong. Somebody buys a ticket on our Ticketmaster site—

**Mr. Bill Mauro:** And they give it to them.

**Mr. Tom Worrall:** —and they in turn list it for sale on the TicketsNow site. They don't give it to them; they list it for sale. That's very important. If they give it to them, then they own the ticket.

**Mr. Bill Mauro:** Yes, I understand that. So none of the tickets that end up with TicketsNow get there from the owner of the ticket?



**Mr. Tom Worrall:** Not to my knowledge. I'm not the owner of the ticket.

**Mr. Bill Mauro:** I mean the primary owner.

**The Chair (Mr. Lorenzo Berardinetti):** Sorry, you still have time, Mr. Worrall, but can you just step back a little bit? I'm having trouble hearing.

**Mr. Tom Worrall:** Sorry. I'm getting excited.

**The Chair (Mr. Lorenzo Berardinetti):** Yes, the mike picks it up.

**Mr. Bill Mauro:** So you're saying the tickets get sold by the primary ticket seller, in this example, we're going to use you, and you sell it. I buy a ticket from Ticketmaster, then I decide I'm going to make a few bucks on my ticket. I give it to TicketsNow, and they resell the ticket.

**Mr. Tom Worrall:** No, you list it on TicketsNow.

**Mr. Bill Mauro:** I list it on TicketsNow, fair game.

I just want to go, in your language, to make the point that—

**Mr. Peter Kormos:** Let these people answer.

**Mr. Bill Mauro:** Oh, I'm sorry, I thought he was finished. Go ahead.

I want to get to the other point I had. Have we got time, Chair?

**Mr. Tom Worrall:** I just want to go back to your statement that we had discussions with the AG's office prior to the bill being introduced. We did. We had meetings, and they had nothing to do with this bill, nothing to do with the language in the bill or the introduction of this bill.

**Mrs. Donna H. Cansfield:** It was the whole issue. It had to deal with the whole issue. Why would you have the discussions to begin with?

**Mr. Tom Worrall:** It was a different issue regarding the Ticket Speculation Act.

**Mr. Bill Mauro:** I just want to read your last page, when you were recapping. I'm going to read what you said: "As I understand it, the Attorney General's intent is to prevent a primary seller from withholding tickets and diverting tickets to be sold at a higher price for profit on a resale site that it also owns. As I've stated, this can't and doesn't happen. So Ticketmaster, a legal and legitimate business, is being punished for something it doesn't do."

If you're not doing it, how is this bill going to punish you?

**Mr. Tom Worrall:** The way we read the language, it's if we're related. If we're related, then we can't act as a resale marketplace. If the bill specifically says that we cannot divert tickets to a resale site, we're great with that. We're good with that. However, the act has no value, because there's no purpose to it. Nobody does that. No primary agency—

**Mr. Bill Mauro:** So you can't be hurt by the bill.

**Mr. Tom Worrall:** No, we can't be hurt by the bill.

**Mr. Bill Mauro:** Okay. Thank you, Mr. Chair.

**Mr. Tom Worrall:** But—can I finish my thought?

**The Chair (Mr. Lorenzo Berardinetti):** Go ahead.

**Mr. Tom Worrall:** There's no primary agency in the entire world that I'm aware of that diverts tickets to a secondary market, meaning this bill has no value. But there is an opportunity, if you want to add language into this bill, for consumer protection. We have ideas on how to do that.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, thank you for your presentation, Mr. Worrall, and thank you as well, Ms. Hall, for being present. We have one more presenter we want to make sure we fit in before 10:30. Thank you.

**Mr. Tom Worrall:** Thank you for your time.

## CAPITALTICKETS.CA

**The Chair (Mr. Lorenzo Berardinetti):** Our next presenter, for 10 a.m., is the Ottawa Senators Hockey Club. Good morning, and welcome to committee.

**Mr. Cyril Leeder:** Good morning, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Again, you have half an hour for your presentation. Any time that you don't use up in your presentation will be, as you can see, utilized for questioning.

**Mr. Cyril Leeder:** Certainly. I certainly won't use that much time.

I want to thank the committee for the opportunity to be here this morning to speak to you. My name is Cyril Leeder. I'm the president of Senators Sports and Entertainment, and along with owning the Ottawa Senators, we also own Scotiabank Place, which is the largest indoor arena in the province. Owning and operating both an NHL team and a major facility led us, in 2003, to form our own ticketing company, CapitalTickets.ca. Capital Tickets has now grown to a point where we sell more than two million tickets each year. It makes us Ontario's second-largest ticket operator, next to Ticketmaster.

As the committee full well knows, the Ticket Speculation Act was created in the 1960s, and there have been very few changes to that act since then. We would submit to this committee that based on our observation, the act today, in 2010, is actually harming those whom it was originally designed to assist and protect, mainly consumers, legitimate business operators like ourselves, and the event rights holders and promoters: the entertainment acts and sports teams.

That being said, we don't have any issue with the current amendment to Bill 172. As you just debated, it really doesn't affect us. We don't withhold tickets to send to a resale site. I would agree with Tom; I don't think anybody withholds tickets to divert them to a resale site. I'll tell you a bit later in the presentation what is happening in the industry and how tickets do end up on these resale sites.

We would strongly encourage the government to entirely abolish the Ticket Speculation Act. That might seem like a bold legislative move, but consider what's happening everywhere else in North America, and in Canada as well. Alberta recently took the same steps to abolish their version of the Ticket Speculation Act, and



there are only two remaining provinces in Canada that actually have legislation governing tickets: Ontario and Manitoba.

If the Ticket Speculation Act was abolished entirely, the market and the industry would tell us how to regulate ourselves, and it would allow us to position each other as authorized and designated resellers. Consumers would know that one reseller was officially authorized to act on behalf of the designated team or event. That's exactly the decision that the province of British Columbia took last year for the Winter Olympics. There's no ticket speculation act or law in that province. They allowed one authorized reseller to be in charge of reselling tickets for the Olympics. It was a very successful venture. It helped consumers. You knew if you went to that site, you had an authentic, real ticket. They processed more than 10,000 tickets on that site.

There were a number of people who bought from unauthorized sites. Some of those tickets ended up being valid, but many of them were not. There was a lot of fraud associated with that event. If they'd have bought on the authorized resale site, they would have not had an issue.

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I'm leaving behind a more detailed brief on some examples, but it really outlines our position on the Ticket Speculation Act in its entirety.

I think you should also understand, for the committee's benefit, that ticket reselling, the resale of tickets after they've been sold once, is the fastest-growing component of the ticket marketplace now in North America. The basic reason for this is the advancement of technology. Anybody who has a computer or access to the Internet is now a ticket reseller. Millions of tickets are bought and resold annually in North America, and there are literally hundreds, maybe thousands, of dot-coms and dot-ca businesses that are only in the business of reselling tickets. That's all they do. We've provided you with a list of the top 20 of those companies. You can go on those sites and buy tickets to just about any event today.

*Interjection.*

**Mr. Cyril Leeder:** A few. There are some businesses that strictly sell discounted tickets, but the ones I've listed there are generally all resellers in above face value.

No one knows for sure how many unofficial, unauthorized or illegal tickets are resold each year in Ontario, but I think the quantum is important for you to understand. This week, we had one of our staff members check in to that and do a little research. They searched just one of the resale sites and checked for just one team. They checked StubHub, which is one of the bigger sites, for the Toronto Maple Leafs. It might surprise you, but there were 14,000 tickets for sale for this season for the Toronto Maple Leafs on StubHub alone. That's resale of tickets for the Leafs.

A small sample showed that more than 95% of those tickets were being sold for more than face value, some of them for \$3,500 a ticket.

**Mr. Mike Colle:** One ticket?

**Mr. Cyril Leeder:** One ticket.

**The Chair (Mr. Lorenzo Berardinetti):** Let him finish his presentation, please.

**Mr. Peter Kormos:** We've got lots of time, Chair—

**The Chair (Mr. Lorenzo Berardinetti):** I know, but I want to be fair to the presenter.

Go ahead.

**Mr. Cyril Leeder:** What I really want to submit to the committee, the key point, is that the only organizations that are now respecting the Ticket Speculation Act in Ontario are the legitimate operators, like the Ottawa Senators and Capital Tickets. We're the only ones that don't resell tickets at above face value. We're not doing that; everybody else is.

We have our own resale site, to allow our season seat-holders who can't get to games to resell their tickets, but we have to sell them at face value. Most of them choose not to use our site. They'll go somewhere else because they can sell them for more.

There's no enforcement of the act. Therefore, we're just driving people to illegal sites. That has a bunch of problems. Some of them are not valid tickets, so we get lots of fraud at games. From the province's point of view, there are significant tax revenues that are not being captured. They're being resold, and those monies are going elsewhere.

For just about every Senators game and for every major concert and event that we host, we have customers arriving at our door with fraudulent tickets. As an example, for three of the big shows we had this summer—Taylor Swift, Justin Bieber, the Jonas Brothers—we had more than 500 fraudulent tickets. Again, I have a copy in the submission of a newspaper article from the Ottawa Citizen about some of the problems.

Many of the online resellers will provide a guarantee. They'll say, "We'll guarantee that these tickets are good." The guarantee only says, "If you can't get in, we'll give you back your money." Try telling that to the mothers and children who were in our lobby for these concerts, crying because they couldn't get in. They didn't want their money back. They just wanted to get into the show. Generally, we let them in, if we have room, but for big, sold-out shows, if it's entirely sold out, there's just no place to put these people, and we end up having to turn them away. I think misguided and misinformed consumers are understandably confused and frustrated.

Another issue: If you go to the most popular Internet search engines and Google "Ottawa Senators tickets" or "Toronto Maple Leaf tickets," you won't get our site. The Ottawa Senators or Maple Leaf Sports won't come up first. Three ticket resellers will be the first three sites that would come up.

*Interjection.*

**Mr. Cyril Leeder:** Yes, exactly.

The reason for that is, Google—and they're not alone: Just about every search engine on the Internet allows the companies that pay for placement to come up first.

So, again, every game we have people coming to us and saying, "How come I paid \$75 for this ticket and the



guy beside me paid \$50?" They've bought the tickets on a resale site and they don't even know it. They just Googled our name, clicked the first button, found the tickets, paid for them, showed up and don't understand why they end up paying a premium on the tickets.

These changes to the way tickets are bought and sold really, like I said, come about because of the rapid advancement of technology. The fact that the Ticket Speculation Act doesn't properly serve those who it was designed to protect in the 1960s shouldn't really be a surprise. There have been really no major changes to it since the 1960s. Again, we would submit to this committee and the government of Ontario that we should abolish that act in its entirety. We'd be much better served and would have much better consumer protection without the act. All we're doing now is providing a safe haven for the resellers to do what they want to do without regard for the consumers.

If you level the playing field with legitimate operators, we'll manage the reselling of our tickets and we'll do a good job at it. We'll take care of the consumers. They're our customers. No one has more of an investment in those people than the teams and the buildings and the events themselves.

You should be collecting tax revenue on the resale of tickets. As I said, it's the fastest-growing area of the ticket business in North America, and billions of dollars each year in North America are being resold. It's billions. It's not small change; it's a lot of money.

Every policy or legislative issue that comes to this committee I know is important. We recognize that. But I'd like to underscore the fact that this piece of outdated and poorly enforced legislation affects millions of ticket purchasers each year, almost all of whom are Ontarians. It really affects our own people and our own constituents right here in the province.

We deserve good protection from the government and from this type of legislation. As I said, allowing the legitimate operators to authorize or own resellers will be the best way to provide consumer protection going forward.

Thank you, and I'd be happy to take any questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Leeder. We have about 15 minutes, so five minutes per party. This time, we'll start with the NDP. Mr. Kormos, you have the floor.

**Mr. Peter Kormos:** Thank you kindly, Mr. Leeder. Yours was a very enlightening presentation.

You gave a number about how many tickets are in the resale market in terms of the totals. What was that number, again?

**Mr. Cyril Leeder:** Just for the one site, StubHub was 14,119 tickets, we found.

**Mr. Peter Kormos:** For one event?

**Mr. Cyril Leeder:** For the Maple Leafs for the season.

**Mr. Peter Kormos:** Oh, for the season.

**Mr. Cyril Leeder:** Yes. You could buy any price range and any level in the building for just about every game.

**Mr. Peter Kormos:** I just find that incredible, that that many season ticket holders are reselling their tickets. Does that follow logic?

**Mr. Cyril Leeder:** They were always doing it. I would submit that season seat holders were always reselling tickets before. It was just to a friend or somebody they know. Now they're doing it online for profit.

**Mr. Peter Kormos:** But that many people?

**Mr. Cyril Leeder:** Yes.

**Mr. Peter Kormos:** Wow. And you were very clear that your reselling site—because you're not a reseller. This site, called Senators TicketExchange, is not a reseller—

**Mr. Cyril Leeder:** No; it's a reseller.

**Mr. Peter Kormos:** Is it a reseller, or do you manage the reseller?

**Mr. Cyril Leeder:** TicketExchange is a resale site, so if you want to put a Senators ticket on our site, we'll let you do that, but the maximum you can charge is the gate price for that ticket.

**Mr. Peter Kormos:** But Senators TicketExchange is not a reseller; I'm the reseller. You're managing. I wrote down what you said: You manage the reselling of tickets.

**Mr. Cyril Leeder:** Yes, you're correct.

**Mr. Peter Kormos:** So you're not covered under the act?

**Mr. Cyril Leeder:** No.

**Mr. Peter Kormos:** The act doesn't apply to Senators TicketExchange.

I've got to say that I'm just so impressed to hear that you will not allow somebody to resell for higher than face value.

**Mr. Cyril Leeder:** That's against the law in this province right now.

**Mr. Peter Kormos:** Yes, it is. And what that means is that websites, even if they're not resellers in and of themselves, that allow people to resell at a price higher than face value are aiding and abetting an offence.

**Mr. Cyril Leeder:** Correct.

**Mr. Peter Kormos:** Well, that's interesting. So they're not so pristine after all, are they?

**Mr. Cyril Leeder:** I never said they were.

**Mr. Peter Kormos:** I bet you you didn't. Well, they've got nothing to brag about, do they?

**Mr. Cyril Leeder:** No. Some of them are trying to be legitimate, and they operate, as I say, all throughout North America. I'd say 90% of the jurisdictions allow the resale of tickets, because there's just no way to enforce it or patrol it any longer.

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**Mr. Peter Kormos:** But that's a separate issue.

**Mr. Cyril Leeder:** I know. That's the point I'm trying to make—

**Mr. Peter Kormos:** As a socialist, I, quite frankly, couldn't care less if people want to resell hockey game tickets in a bourse. Do you understand what I'm saying? That's a private transaction. It's happening right now down at the TSE, for Pete's sake, at a far more criminal level than ever happened outside Maple Leaf Gardens.



People who are hosting a website that allows and indeed—wink, wink, nudge, nudge—accommodates people to resell at higher than face value are pretty unethical people, aren't they?

**Mr. Cyril Leeder:** I don't want to judge them. I'm just here to point out the fact that it's happening. There are thousands of transactions taking place today on tickets for events in Ontario.

**Mr. Peter Kormos:** By the way, who's Taylor Swift?

**Mr. Cyril Leeder:** She's the hottest new country act.

**Mr. Peter Kormos:** Okay. Sorry, I've never heard of Taylor Swift.

Chair, the Attorney General should probably get a copy of this Hansard, because Ticketmaster is here. Again, I acknowledge that Ticketmaster is, if they are what they say they are, removed from the ambit or scope of the legislation. But they are, by virtue of their TicketsNow, aiding and abetting offences under the Ticket Speculation Act. That's a very serious matter. We don't need the amendments to prosecute TicketsNow. If they're aiding and abetting a violation of the Ticket Speculation Act as it now stands, we don't need the amendment at all. People should be getting arrested, prosecuted, sent to jail—no, they can only be fined.

**The Chair (Mr. Lorenzo Berardinetti):** I'll stop you there. We have to move on to the Liberal Party. Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** First of all, thank you for a very thoughtful presentation. You raised a number of issues.

I think it would be reasonable to say that this is a first approach. I don't think the government would be shutting down any further discussions that you have identified. It's a good start on how we can continue to improve, and you certainly identified some of those ways in which to do it. Hopefully, you will continue to discuss with the Attorney General, from your perspective, how we can continue to improve this act.

**Mr. Cyril Leeder:** We've had a number of discussions with the Attorney General's office and Omar, and they've been very helpful and respectful. I think we have a good dialogue going there, and we will continue that.

**Mrs. Donna H. Cansfield:** I appreciate that.

I just have to say that when you have—is it 80 games?

**Mr. Cyril Leeder:** It's 82.

**Mrs. Donna H. Cansfield:** With 82 games, no wonder people want to sell their tickets. I go back to those days when—how many teams were there in the league?

**Mr. Bas Balkissoon:** Six.

**Mrs. Donna H. Cansfield:** There were six, and I could actually watch them all and know who played and have an understanding. Today, it's a whole other world—

**Mr. Bas Balkissoon:** It's a business.

**Mrs. Donna H. Cansfield:** —of business.

Anyway, thank you again for your presentation.

**The Chair (Mr. Lorenzo Berardinetti):** There's a question from Mr. Colle.

**Mr. Mike Colle:** What's been computerized is the scalpers. We've got computerized scalping right now. That's what's been happening at the Leafs games since the 1950s. Scalpers would even buy season's tickets and then stand out in front of Maple Leaf Gardens, scalping them. I'm sure scalpers are still buying Leafs tickets, but instead of standing in the cold in front of the Gardens, they're doing it by computer in a more corporate way. It's corporate scalping, basically.

**Mr. Cyril Leeder:** I think there are a number of people who solely buy the tickets to resell them all, but the vast majority of tickets being resold are by fans who, as the member pointed out, can't get to every game. They can't get to 41 home games, so they maybe get to 25 and they resell 16.

**Mr. Mike Colle:** You say that abolishing the Ticket Speculation Act would help you and other legitimate first-hand sellers of concert or hockey tickets. Could you just explain to me how abolishing the speculation act would be better for the consumer and better for legitimate sellers of tickets?

**Mr. Cyril Leeder:** We have a site where we resell tickets now, and it's called Senators TicketExchange. But we only do about 2,000 tickets a year on that site, because people are going elsewhere. So if we were able to have the same rules apply to us, they would sell their tickets on our site because they'd know that it's a legitimate site and we can authenticate the ticket. We can not only guarantee their money, we can guarantee they'll get access when they buy from that site. We do that now, but we don't get the business because they're reselling, and for more money, on other sites.

**Mr. Mike Colle:** How can you stop people from still doing that?

**Mr. Cyril Leeder:** We can't. But there would be no incentive for them to go somewhere else when they can get better service and better authentication for the same price on our site.

The commercial reality is, they'll get more dollars if they sell somewhere else, because they're just circumventing the Ticket Speculation Act. Our site doesn't; ours respects the existing legislation. But it puts handcuffs on us, and the consumers are choosing to go somewhere else to sell their tickets. Therefore, the buyers are going somewhere else. The buyers are the ones you want to protect.

**Mr. Mike Colle:** But the buyers are always going to be enticed by someone selling tickets online, whether the act is there or not.

**Mr. Cyril Leeder:** I've been to the Olympics, and I bought on the authenticated site because I didn't want my family to show up at the venue and not get in. I went to the authenticated, authorized site, bought the tickets, and was happy to have a site that I knew was endorsed by the venue. In that case, the province actually endorsed it because it was a provincial event.

**Mr. Mike Colle:** On the other hand, you are an authentic site. You're the Ottawa Senators site. They know you're—



**Mr. Cyril Leeder:** But we don't have the tickets. The people who bought them originally are reselling them on StubHub, Razorgator. They're going elsewhere and selling their tickets.

**Mr. Mike Colle:** But the public should know that you have the legitimate tickets and that you're not charging a markup.

**Mr. Cyril Leeder:** We don't have enough. They're doing a couple hundred thousand. We're doing 2,000.

**Mr. Mike Colle:** Because they buy priority spacing on Google and things like that?

**Mr. Cyril Leeder:** They can sell them for more than face value. We can't.

**The Chair (Mr. Lorenzo Berardinetti):** We're moving on to the Conservative Party. Mr. Clark has five minutes.

**Mr. Steve Clark:** I want to take this opportunity to thank you for coming and making a presentation.

I'm from eastern Ontario, and I remember quite vividly the Senators franchise beginning. It certainly wasn't uncommon in small-town eastern Ontario to have a group of 15 or 16 people, buddies in the beer league, people who worked together, buy some season tickets and split them up. It's not uncommon in a small community to have a pair of Sens tickets floating around, and if you can buy them, you buy them.

You made some great points about Google. Even though the Capital Tickets site has been in operation for such a long time—and I've bought many a Senators ticket off that site—there still is that confusion. I have always been surprised when I've gone to TicketExchange at how few tickets are actually offered on that site compared to any other site. It's extremely strange.

I'm very interested in what you said about the two provinces, ourselves and Manitoba, that have legislation. I'm wondering if you can enlighten us as to how the industry has regulated itself in those other provinces that don't have legislation.

**Mr. Cyril Leeder:** Again, I think it's letting the market forces manage themselves. In our case, we know that we would be able to authorize somebody to be an official authenticated reseller, and you know that when you buy a ticket it's going to get you into the venue. I'm speaking from what I know has happened in British Columbia.

I know Alberta is hosting the world juniors next year. They've got some big events coming. They're doing the same thing. They've got the Grey Cup there this weekend. They're reselling tickets on authenticated sites.

**Mr. Steve Clark:** That's the key.

**Mr. Cyril Leeder:** That's the key. It's just levelling the playing field and allowing, in our case, the hockey team to designate somebody. It might not be us. Senators TicketExchange is run by Ticketmaster. It's a Ticket-master site. They have technology there that helps people put their bar codes on and exchange them. It's not our own technology.

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**Mr. Steve Clark:** Well, I know Mr. Chudleigh has a question, but I do want to go back to the 2009 world

junior championship, which I know the Ministry of Health Promotion was heavily involved in.

**Mr. Cyril Leeder:** Yes.

**Mr. Steve Clark:** How was the issue of having that site operating, in terms of bogus tickets showing up at the gate?

**Mr. Cyril Leeder:** That was an event where there were lots of extra tickets available. We resold 10,000 tickets on Senators Ticket Exchange for the world juniors.

**Mr. Steve Clark:** So you resold more tickets than you do normally for the Ottawa Senators?

**Mr. Cyril Leeder:** Yes.

**Mr. Steve Clark:** Because it was a site that, obviously, the ministry was involved in. It was heavily advertised, so people knew, in that case, that that was the site to go to.

**Mr. Cyril Leeder:** That was a case where tickets were sold at a discount, because they were bought in big packages, really, to get access to the big games. It was a 31-game package, so people resold games they couldn't get to. That allowed the people in Ottawa who didn't have packages to go to the odd game here or there that they wanted to go to. As I said, we would have done 10,000 tickets for just that one event.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Chudleigh?

**Mr. Ted Chudleigh:** Thank you for coming, Mr. Leeder. As I understand it, the Ottawa Senators own Capital Tickets?

**Mr. Cyril Leeder:** Correct.

**Mr. Ted Chudleigh:** You also own Senators Ticket-Exchange?

**Mr. Cyril Leeder:** Correct.

**Mr. Ted Chudleigh:** As you understand this legislation, if this bill passes, would you have to divest yourself of one of those two sites?

**Mr. Cyril Leeder:** No—not with the amendments that have been made, no. The original wording back in April was a problem for us. With the amendment now, it's not.

**Mr. Ted Chudleigh:** And this is the amendment that's going to be introduced?

**Mr. Cyril Leeder:** Correct. It's the amendment that—the wording, as I understand it, now—I'll read it back to you to make sure I've got it right.

**Mr. Ted Chudleigh:** The government should take note—

**Mr. Cyril Leeder:** It talks about withholding tickets for the purposes of resale. That was the subtle change that was made to the amendment. We don't withhold tickets. Everything goes on sale, somebody buys it, and then it ends up on a resale site. So it doesn't get—

**Mr. Peter Kormos:** On a point of order, Chair: What is going on here? This has happened before in these committees. Somebody has been advised of an amendment that the government's going to propose or put before this committee before anybody else has?

**The Chair (Mr. Lorenzo Berardinetti):** I don't have that amendment. Neither does the clerk's office.



**Mr. Peter Kormos:** Well, Lord love a duck. Somebody better have it.

**The Chair (Mr. Lorenzo Berardinetti):** That being said—

**Mrs. Donna H. Cansfield:** You'll have it next week.

**Mr. Peter Kormos:** Oh, we'll wait until next week, but other people have it now?

**The Chair (Mr. Lorenzo Berardinetti):** Excuse me. *Interjections.*

**The Chair (Mr. Lorenzo Berardinetti):** We're close to the end. I want to thank you, Mr. Leeder—

**Mr. Peter Kormos:** No, Chair. Just a minute. There's a contentious issue here.

**Mr. Ted Chudleigh:** There's a point of order on the floor.

**Mr. Peter Kormos:** If this witness, if this participant has information that's relevant about an amendment that the government's going to propose, then he should be allowed to put it forward.

**Mrs. Donna H. Cansfield:** If I may, Chair, on the point of order, it is not the formal amendment before us. There was a discussion that took place. Just as the previous folks had an opportunity to speak to the Attorney General, so did this particular deputant. There is nothing that is here. The deputant cannot propose the amendment. If there's something coming forward, it will come forward next week. There are discussions that go on amongst all deputants that come forward.

**The Chair (Mr. Lorenzo Berardinetti):** I understand that, so I'm going to ask the following based on the point of order: Would the presenter be willing to table that present amendment that you have to this committee?

**Mr. Cyril Leeder:** Certainly.

**The Chair (Mr. Lorenzo Berardinetti):** We will ensure that everyone will get a copy of that.

**Mr. Cyril Leeder:** May I—I wasn't trying to put the committee out of order here. I just—

**The Chair (Mr. Lorenzo Berardinetti):** No, that's fine.

**Mr. Ted Chudleigh:** No, the government accomplished that all by themselves.

**The Chair (Mr. Lorenzo Berardinetti):** It's just another document.

**Mr. Cyril Leeder:** So for the purposes of subsections (1) and (2)—

**The Chair (Mr. Lorenzo Berardinetti):** No, what you do is you give it to the—

**Mr. Ted Chudleigh:** No, let him read it.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Go ahead. Read it.

**Mr. Cyril Leeder:** I'll read it, and then I'll hand it to the clerk:

“For the purposes of subsections (1) and (2), a primary seller and secondary seller are related if the relationship between them, whether corporate, contractual or otherwise, results, directly or indirectly, in an incentive for the primary seller to withhold tickets for sale by the primary seller so that they can be sold by, through or with the assistance of the secondary seller instead.”

So the subtle change there really is, if you're going to withhold tickets—which is what this discussion about this issue in New Jersey was, which is how this really came about—for the purposes of giving them to someone else, that's not a problem for most of us, and certainly not for us.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Would you be kind enough to leave a copy with Mr. Day here, and then he will ensure that all members—

**Mr. Cyril Leeder:** Sure.

**Mr. Peter Kormos:** Chair, I'm calling upon you to call a subcommittee meeting. We have to discuss returning to the issue of addressing this matter with witnesses. Quite frankly, one of the issues that I'll raise at subcommittee is that Ticketmaster be asked to come back and respond to the information we've received now.

**Mr. Ted Chudleigh:** I'd agree with that.

**The Chair (Mr. Lorenzo Berardinetti):** I will endeavour to call a subcommittee meeting—

**Mr. Peter Kormos:** I'm here all day, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** We'll do that.

**Mr. Ted Chudleigh:** Are you telling me, Chair, that I'm finished?

**The Chair (Mr. Lorenzo Berardinetti):** We're out of time, unfortunately.

**Mr. Ted Chudleigh:** Thank you very much for coming, Mr. Leeder. We appreciate it. Thank you particularly for dropping a bombshell. It made quite an impression. You had a big win here today. My apologies that you didn't have a big win last night. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Just for the committee's information: As per the order of the House, proposed amendments are to be filed with the committee clerk by 5 p.m. on Monday. That's next Monday, November 29, 2010, and that's a hard deadline.

Secondly, per order of this House, the committee will meet for the purpose of clause-by-clause consideration of this bill on Wednesday, December 1, and Thursday, December 2, 2010. We have legislative counsel working on this as well.

**Mr. Peter Kormos:** Chair, I move that this committee meet this afternoon, as it's entitled to, to hear from Ticketmaster with respect to the information we've received this morning.

**The Chair (Mr. Lorenzo Berardinetti):** There's a motion on the floor. Any debate?

**Mr. Peter Kormos:** Chair, look, it's obvious. I don't know whether Ticketmaster has been blindsided by this information or not. They ought to have an opportunity to address what appears to be at least the contemplation by the government of an amendment in the manner that's been related to us by Mr. Leeder.

It's important—it's imperative—that this committee hear from Ticketmaster about what this amendment might mean to them and might mean to their submission with respect to the proposed amendment, that is to say, the legislation itself.



**The Chair (Mr. Lorenzo Berardinetti):** All right. We've noted your submission. I'm watching the time. Any further debate? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** The deputant previously had exactly the same opportunity to propose any amendments in his deputation if he chose to, and there weren't any. So I see this—

**Mr. Peter Kormos:** Nobody proposed—you proposed the amendment.

**Mrs. Donna H. Cansfield:** —as a moot point, because one deputant chose to, another didn't. They both had the same opportunity. The rules are there for everyone, so I see no reason for this committee to meet again this afternoon.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Back to Mr. Kormos's motion.

**Mr. Peter Kormos:** I'm prepared to have you put the question.

**The Chair (Mr. Lorenzo Berardinetti):** All right.

**Mr. Peter Kormos:** Recorded vote.

**The Chair (Mr. Lorenzo Berardinetti):** All those in favour of Mr. Kormos's motion? Recorded vote.

#### **Ayes**

Chudleigh, Elliott, Kormos.

#### **Nays**

Balkissoon, Cansfield, Colle, Moridi.

**The Chair (Mr. Lorenzo Berardinetti):** That's lost; it does not carry.

We stand adjourned until Wednesday, December 1, 2010.

*The committee adjourned at 1030.*





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Second Session, 39<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 1 December 2010

# Journal des débats (Hansard)

Mercredi 1<sup>er</sup> décembre 2010

## Standing Committee on Justice Policy

Ticket Speculation  
Amendment Act, 2010

## Comité permanent de la justice

Loi de 2010 modifiant la Loi  
sur le trafic des billets  
de spectacle



Chair: Lorenzo Berardinetti  
Clerk: Trevor Day

Président : Lorenzo Berardinetti  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Wednesday 1 December 2010

Mercredi 1<sup>er</sup> décembre 2010*The committee met at 1305 in committee room 1.*TICKET SPECULATION  
AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT LA LOI  
SUR LE TRAFIC DES BILLETS  
DE SPECTACLE

Consideration of Bill 172, An Act to amend the Ticket Speculation Act / Projet de loi 172, Loi modifiant la Loi sur le trafic des billets de spectacle.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, we'll call the meeting to order. This is the Standing Committee on Justice Policy. On the agenda here is to do clause-by-clause consideration.

We'll start with section 1. Are there any amendments? No? Okay, any debate on section 1?

Shall section 1 carry? All those in favour? Opposed? Carried.

Section 2: Mr. Zimmer.

**Mr. David Zimmer:** I move that section 2 of the bill be struck out and the following substituted:

"2. The act is amended by adding the following section:

"Prohibition, primary seller

"2.1(1) No primary seller shall make a ticket available for sale for admission to an event in Ontario if a ticket for admission to the same event is or has been made available for sale by a secondary seller who is related to the primary seller.

"Prohibition, secondary seller

"(2) No secondary seller shall make a ticket available for sale for admission to an event in Ontario if a ticket for admission to the same event is or has been made available for sale by a primary seller who is related to the secondary seller.

"Related

"(3) For the purposes of subsections (1) and (2), a primary seller and a secondary seller are related if a relationship between them, whether corporate, contractual or other, results, directly or indirectly, in an incentive for the primary seller to withhold tickets for sale by the primary seller so that they can be sold by, through or with the assistance of the secondary seller instead.

"Offence

"(4) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to,

"(a) if the person is an individual, a fine of not more than \$5,000; and

"(b) if the person is a corporation, a fine of not more than \$50,000."

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Mr. Chudleigh.

**Mr. Ted Chudleigh:** I would like to ask a question as to how the word "incentive" is being defined. It seems like it's a very broad term and somewhat vague in its use in (3), "Related." I wonder if the government or perhaps legal counsel could make comment as to how that word is being interpreted.

**Mr. David Zimmer:** I have with me one of the senior and ranking lawyers in the ministry, who will shed light on your question.

**The Chair (Mr. Lorenzo Berardinetti):** Please just identify yourself.

**Mr. John Gregory:** My name is John Gregory. I'm general counsel with the Ministry of the Attorney General.

There is no intention that "incentive" should have any meaning other than its dictionary meaning, which I think means that Mr. Chudleigh is essentially right—that it's pretty broad.

Any kind of incentive, normally, would be financial: if we're talking about the sale of goods, how the primary seller would profit from the secondary seller. Whether there's a contract that says, "We'll give you a cut of sales," or there is a corporate relationship where it all flows into the same purse or whatever—anything that can say, "It would be to my economic advantage not to sell these things at their face value, but to get them over to someone who will sell them for more."

There's not a specific statutory meaning. It's not defined in the statute.

**Mr. Ted Chudleigh:** So, just for the record, it has no influence on tickets that are being given out for promotional purposes? As I'm sure the committee realizes, a significant percentage of any concert tickets, maybe 25% and higher in some cases, would be given out to radio stations, newspapers and magazines for the purpose of advertising the event coming up. Every morning on radio stations, you get contests where free tickets to concerts are given away. These are promotional tickets. Quite often, they amount to 25%, 30% of the tickets that are available in that venue. In no way would those tickets be



considered to be withheld, or considered to be an “incentive,” the term that is being used in this amendment.

**Mr. John Gregory:** I would think, normally, not. The question is, is there an incentive to put them into promotion instead of selling them? Are you going to get something from some related seller? Are you going to get cash coming back to you? I would have thought not. If I win a ticket on the radio and say, “I don’t want to go to that. I’m going to sell it off on eBay and make money,” that’s fine for me—subject to violating the other section of the act—but it doesn’t put money back in the hands of the promoter. So there wouldn’t be an incentive for the promoter to do it because they were profiting from the secondary sale.

I think the short answer is yes, but that’s why.

**Mr. Ted Chudleigh:** That’s what I wanted on the record.

The other term that’s being used a little later in that same sentence is “withhold.” It is the incentive to withhold, not the act of withholding, which is at issue. Would you comment on that?

**Mr. John Gregory:** You’re right. That’s because subsection (3) is essentially a definition of “relationship” and what is related. So the question is not, “You are related because of what you have done,” but “You are related because the relationship is such that it would be of interest to you to behave in a certain way”; in this case, to withhold tickets in order to sell them somewhere else through another channel—a secondary seller—because it will be more lucrative to you than to have them sold in the primary market in the usual way. It’s an operational definition rather than a factual definition, if I can put it that way.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? Mr. Kormos.

1310

**Mr. Peter Kormos:** Let’s parse this, perhaps. Subsection (1) is not changed by the amendment, subsection (2) is not changed by the amendment, so we’re only talking about subsection (3). I’m trying to follow along. “For the purposes of subsections (1) and (2), a primary seller and a secondary seller may be related” as compared to “are related.”—that’s interesting—“if a relationship between them, whether corporate”—and that’s a clear relationship. But then you go on to contractual. In the existing bill: “by means of an arrangement between them.” That’s contractual, right? In the original bill, you’re saying basically a contract, an agreement.

**Mr. John Gregory:** That’s right, without wanting to—

**Mr. Peter Kormos:** So far we’re not changing anything. So “corporate, contractual or other,” what could that possibly be? I know that’s a great word, I suspect, from a drafting point of view, because it contemplates things that maybe aren’t conceivable yet or don’t exist. Seriously, what sorts of things are you contemplating? It’s either going to be corporate or contractual. What other kind of relationship could you possibly—what’s the “other” intended to cover? Or is it just there just because?

**Mr. John Gregory:** Mr. Chair, if I may answer that, the idea of “contractual or other” is to cover, as Mr. Kormos points out, the word “arrangement” in the original text of the bill, as it was written in the House. There could be a number of other legal relationships. There could be a partnership which would not be a corporate relationship but could be an arrangement where you have some kind of business partnership where one of the partners sells in the primary market and one of the partners sells in the secondary market, but they pool their profits, which is why, of course, if the secondary seller can sell for more you might well have an incentive for the primary partner to pass the tickets on and not sell them.

“Other” definitely is intended to be a bit of a basket clause for the arrangements we haven’t thought of, but “arrangement” is similarly broad. An arrangement is probably contractual but there might be something else; there might be some kind of joint venture. We don’t know the relationship.

If you look at professional baseball, for example, there’s Major League Baseball, there’s the team and then there’s Major League Baseball/Entertainment—there’s a long corporate name for it—which has certain relationships with certain ticket sellers. It’s not corporate. Where are the contracts, where is the relationship? It’s a combination of relationships, and we want to cast a blanket, but we want to cast a blanket only if the operational effect is to give an incentive to do—

**Mr. Peter Kormos:** Which is the next part of the amendment. “Other” is an abundance of caution.

**Mr. John Gregory:** That’s right.

**Mr. Peter Kormos:** I suspected that. I just wanted to be clear.

“Results, directly or indirectly, in an incentive” implies profit, but not necessarily monetary profit; it could be other incentives. It implies a gain for the primary seller, an incentive for the primary seller to withhold tickets for sale by the primary seller so that they can be sold.

It’s a problem. “An incentive for the primary seller to withhold tickets”—tickets that are to be sold, so they can be sold through—so it’s the primary seller that has to have the incentive?

**Mr. John Gregory:** That’s right. The problem that the bill is intended to fix—if I can stick to the technical rather than getting into the policy. The idea was that I can’t get tickets for concert X or sports event Y despite the fact that I’m on the phone or I’m online within five seconds of them going on sale because there aren’t any left. But look, I get an offer to go to a secondary seller where there are lots of them at a much higher price. Why is that happening?

The idea of the bill is to say that we do not want a situation where the primary seller has incentive not to put a full array on sale at the face value for the primary sale because there’s more money to be had or some other incentive—I take your point; it wouldn’t have to be money if there was prestige in the secondary seller, but for most corporate and commercial matters, it’s monetary.



So we want to say no, don't create a structure that creates that incentive.

Now, if tickets are withheld for other purposes, as Mr. Chudleigh said, for promotional purposes or for doing favours for the artists or whatever, well, that's a different question. There's nothing the primary seller can do about that. The primary seller should not be in a position of having an automatic, built-in conflict of interest.

**Mr. Peter Kormos:** Okay. And does this correct the problem that you have with a secondary seller being a mere broker? "Secondary seller" means a person who is engaged in the business of making available for sale tickets that have been acquired in any manner and by any person from or through a primary seller."

You see, we had the Ottawa Senators here, and TicketsNow was very peculiar about the stuff they explained at the hearing. It was straightforward, but it was peculiar at the same time because they suggested—as a matter of fact, they denied there being any relationship in terms of who sells tickets to TicketsNow and Ticketmaster.

The implication from the get-go is that TicketsNow was given priority access to tickets from Ticketmaster. In fact, the \$300,000 settlement in New Jersey suggests that that was the case because if it were a mere computer glitch—one can't conceive of how a computer glitch could do that, first of all, but secondly, why would there have been a settlement?

Is the ticket resale site of the Senators—which they say is not scalping because a ticket holder isn't allowed to sell a ticket for higher than face value. That seems to be a pretty good thing; I think we all thought that was a good thing because they're not scalping. But does this address, then, the concern that the secondary seller by definition would include, similarly, a website that acts as a broker or a bourse for ticket holders to sell their tickets?

Do you understand what I'm saying?

**Mr. John Gregory:** Yes. Well, certainly, the definition of secondary seller which is in section 1 talks about making available tickets so that we don't fix what their business model is. If their business model is that I buy tickets and resell them, like the few people outside the Air Canada Centre, or whether it's online and you're just an intermediary or a flow-through doesn't matter. The point is, if that operation is a money-making operation, and if it makes enough money that your related business would rather have it sold that way than on the primary market, then you're going to be caught by this.

**Mr. Peter Kormos:** Fair enough.

**Mr. John Gregory:** It's a flexible business model.

**Mr. Peter Kormos:** But I'm reading it, and it may be addressed by your amendment in subsection (3) here, "Secondary seller" means a person—or corporation—"who is engaged in the business of making available for sale"—not selling, but making available for sale—"tickets that have been acquired in any manner and by any person." It seems to me that if the Senators—what was the name of their secondary website?

**Mr. John Gregory:** CapitalTickets.

**Mr. Peter Kormos:** So if I have a Senators ticket and I want to put it out for sale, and I give it to this CapitalTickets, even though it's at face value—none-theless, CapitalTickets is a person who is making available for sale my ticket that has been acquired in any manner and by any person—to wit, me—not necessarily by CapitalTickets.

**Mr. John Gregory:** That's right. It's not my position at this point to be giving legal opinions, but as a popular reading, I think CapitalTickets is a secondary seller as defined here. One of the purposes of the amendment is to say let's not look just at whether or not there is a contract or a corporate relationship between party A and party B, but is there one that has operational consequences?

I don't want to speculate for the committee; this is supposed to be a technical response. But if the Ottawa Senators see tickets being sold by CapitalTickets at face value, then there's no incentive for them to say, "Well, let's send all the tickets to CapitalTickets," where they get some percentage of CapitalTickets' commission. They'd rather get the full face value in selling it over the counter for \$80 a ticket rather than getting \$5 on CapitalTickets' commission, or whatever the commission happens to be. There is not an operational incentive, so it's not just the structure.

1320

Before, with the bill without the amendment, there could be an issue between the Senators and Capital Tickets. With the amendment and the operational element, there should not be.

**Mr. Peter Kormos:** Okay, that's fair, and I'm glad we got that explanation—which makes this a reasonably fine amendment, doesn't it, Mr. Zimmer?

**Mr. David Zimmer:** Well, just to add to that, my short thought on the matter is that the amendment makes the definition of the relationship functional—that is, what effect it is likely to have—rather than structural, where you're just looking at the technical, legal links between the bodies. What the change does is it reduces the chance of having the ban apply where no harm is intended. So we're after the functional relationship rather than a mere technical relationship, as Mr. Gregory said, of a contractual link between the two of them. Are they—ah, enough said.

**Mr. Peter Kormos:** Perhaps to you, sir: One of the things that we heard about over the course of the debate and the modest committee hearings, through no fault of anybody other than the fact that only two parties wanted to appear in the whole world, was that there is a computer system or a computer program that allows a scalper to access websites and scoop up big volumes of tickets. I wish somebody was here with that technical expertise, because I don't understand how that happens without collusion. How does that buyer know to plug into that purchasing program? I have no idea.

Since there's a relationship required—well, there is collusion required in your amendment, is that right?

**Mr. John Gregory:** Well, a relationship is not an accidental relationship; it's an intentional relationship.



**Mr. Peter Kormos:** Yeah. So this is the collusion amendment. Thank you.

I have more to say about the bill itself, but I appreciate the assistance.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further debate on the amendment? Mr. Chudleigh.

**Mr. Ted Chudleigh:** Does the government have anything else to say on this? I just take it that the silence, or that the response of the government would indicate that they support what Mr. Gregory has commented on in the bill. Mr. Zimmer, is that correct?

You basically support his comments? That's what I'm asking.

**Mr. David Zimmer:** He has made an accurate statement of the intention of this amendment and the effect of the amendment in practical terms.

**Mr. Ted Chudleigh:** Thank you very much, Mr. Zimmer. I have no further questions on this.

**The Chair (Mr. Lorenzo Berardinetti):** There being no further debate, shall the amendment carry? All those in favour? Opposed? Carried.

Shall section 2, as amended, carry? Those in favour? Opposed? Carried.

There are no amendments from sections 3, 4 and 5, so we'll just put the vote together on these, at the will of the—

**Mr. Peter Kormos:** No, do number 3.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. We'll do them separately, then. Section 3: I'll put the question. Shall section 3 carry? Carried.

Any debate on section 4?

**Mr. Peter Kormos:** Please.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** I'm just curious: Why would there not be a fixed date for coming into force? Because it seems to me that if there are in fact operators out there—and to date, there's been absolutely no evidence of any of the operators out there, unless Ticketmaster is outright lying; they were the ones that seemed to be fingered, but they denied that there's collusion between them and TicketsNow. Wouldn't it be fair and reasonable to give a fixed date so that if there are parties out there who have that relationship, they would have an opportunity to divorce—

*Interjection.*

**Mr. Peter Kormos:** Yeah—to divorce themselves from the resale operator? If there are people out there colluding, I'm sure that there are tickets that are already in the possession of the reseller for events six months from now and that were acquired three months ago. I don't know whether there's any quick explanation for that.

**Mr. David Zimmer:** It's our intention, after royal assent, that we will consult with the appropriate parties to fix the proclamation date.

**Mr. Peter Kormos:** Who would those parties be?

**Mr. David Zimmer:** Those who have an interest in the legislation.

**Mr. Peter Kormos:** Well, only two people showed up for the hearings.

**Mr. David Zimmer:** We're an inclusive and consultative government.

**Mr. Peter Kormos:** Tell that to your colleagues who have been slapped around by the Premier's office.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate on section 4? Seeing none, shall section 4 carry? All those in favour? Opposed? Carried.

Section 5: Any debate on section 5? Shall section 5 carry? Those in favour? Opposed? Carried.

Shall the title of the bill carry? It's carried.

**Mr. Peter Kormos:** Now we have some debate.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Is there any debate, then, on Bill 172, as amended?

**Mr. Peter Kormos:** Yes, there is.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** This is bizarrer and bizarrer, every step of the way. There was an image painted of all sorts of scalpers out there that had partnerships with primary ticket sellers. It was painted as something that was dangerous to the Canadian fibre—for one, I mean.

It seems to me that when the Springsteen organization complains about resellers, what they're really complaining about is that they weren't charging enough for their tickets in the first instance and they should have been making that money rather than the reseller, because obviously—what the reseller does is test the market. The reseller determines what a ticket is worth, the real commercial value of a ticket to a particular event, a sporting event, an entertainment event, what have you.

So first we were told about this incredible illness out there, even though I haven't read about a ticket scalping charge being laid in years, literally years. I recall a couple from outside Maple Leaf Gardens, minor prosecutions. And then we were told—and correct me if I'm wrong—that the Attorney General would only act if there were a complaint, that it wouldn't be proactive. He wouldn't be policing the reseller community.

If this is such an ill out there—as far as I'm concerned, if somebody wants to pay however many dollars to go to a commercial concert, a rock and roll concert, what have you, by all means, feel free to do so. Who am I to tell them not to? Similarly, if somebody wants to sell a ticket, quite frankly, even as a reasonably left-wing socialist, as far as I'm concerned, let them sell the darned thing.

**Mr. Ted Chudleigh:** I find this amazing.

**Mr. Peter Kormos:** Well, no. If there's a market out there, quite frankly, that's their business. I didn't know that we as a government were that interested in regulating commercial activity when we're not talking about necessities.

Good God, you folks will ignore the plight of hydro consumers, but you'll purport to protect people who want to buy tickets to Justin Bieber. That seems to me some pretty screwed up priorities. It really does; think about it.

But then we have the Ticket Speculation Act itself. I stated very clearly in the Legislature that that Ticket



Speculation Act itself permitted the prosecution of resellers of any sort, whether they're colluding with the primary seller or not. It does. You can also charge people with conspiracy to commit.

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You can deal with the big-volume buyers. I'm surprised that you didn't. If you were really concerned about people who use—was it called a bot system? Bot system, is that what it's called? Whatever the name of it is, I'm surprised that you didn't include regulations that require primary sellers to design software to protect themselves from these big-volume buyers.

I remember a day, again, when kids used to line up for tickets to a concert outside Sam the Record Man or Maple Leaf Gardens, and you were literally restricted to four tickets each. You don't, Mr. Naqvi, because you're too young. But those were the days when scalping was quite an honourable profession because most people didn't want to line up for 24 hours, and they were more than pleased to pay somebody an additional 50 bucks to line up for them, especially if you were not 17 years old anymore. Yet those scalpers got prosecuted. Those were the days when undercover cops would police around Maple Leaf Gardens, and if somebody was peddling a couple of Maple Leafs' tickets—they didn't have the Provincial Offences Act then, but they'd get a ticket.

For the life of me, this is Alice in Wonderland sort of stuff. You aren't prosecuting scalpers now even though the law—the existing act—gives you all the authority and power to prosecute all scalpers, whether they're related, as the ones you purport to deal with in this bill, or ones who are unrelated using computer systems. Why wasn't there a bill saying that primary sellers are obligated to prevent people from buying in lots of more than 20 or 30? But then again, what if Bell Canada wanted to buy 100 tickets to a concert for its employees? I guess that would be problematic because you'd be preventing them from doing precisely that.

But you haven't been very creative here at all. I think this is knee-jerk stuff. I don't think it's very well-thought-out stuff.

It's also stuff that we're basically told is never going to be implemented. Why weren't you going after Tickets-Now with the existing legislation when that existing legislation gave you the power to do it? It says, "Scalping is an offence." You were worried about the size of the penalty? You could have gotten injunctions based on the statute, the Ticket Speculation Act. You didn't need to criminally prosecute; you could have enjoined Tickets-Now from selling scalped tickets. But you haven't done that either.

We're going to vote for this because it's no big deal; it's just silly. I suspect the government will again play its silly stunt of forcing a recorded vote, which is getting really tedious, by the way, because it looks silly. I don't know what point you're trying to make, what kind of record you're trying to create. If you think that's going to help you in the upcoming election, I don't know what

you guys have been smoking. I suspect I know, but I don't, in fact, know.

So here we are. We're going to vote for the bill. I think it's been an interesting exercise, but very unfulfilling. There we go. Let's get on with it, Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, any further debate on the bill, as amended? Mr. Chudleigh.

**Mr. Ted Chudleigh:** I'd like to put a comment on the record. There seems to be an assumption among people that Ticketmaster is, in fact, diverting tickets and that we're trying to catch them at it.

I would give you the example of a rock star coming into Toronto, and they're going to put on a show, and they're going to distribute their tickets through Ticketmaster. If they thought that Ticketmaster would divert tickets to someone else and sell those tickets at twice the price, the extra money that the secondary seller got, really, was stolen from the rock star. So if the rock star believed, or there was a strong suspicion, that Ticketmaster actually did divert tickets, Ticketmaster would be out of business.

Ticketmaster and their parent company are the largest ticket sellers in North America. So I think the assumption that the government has made can be hurtful and harmful economically in the marketplace to a company that's operating legally in Ontario, and I think you just should recognize that fact.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mr. David Zimmer:** Yes, just a second.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Zimmer?

**Mr. David Zimmer:** Just let me make these four points, first, with respect to the NDP's comment that this legislation is just silly, and, second, with respect to the PC comment that the legislation is harmful and hurtful. First, we all know—

**Mr. Ted Chudleigh:** That's not what I said.

**Mr. David Zimmer:** Well, I'll check Hansard. You used the words "hurtful" and "harmful."

**Mr. Ted Chudleigh:** The assumption is hurtful and harmful, not the act.

**Mr. David Zimmer:** The fact of the matter is, there were many, many complaints about people being forced to the secondary market—many, many complaints. In fact, there was a widely held public concern about large-scale market manipulation. In fact, those two comments about the individual complaints and market manipulation were opined on at length in the various media.

Number two, scalping is illegal. It's already illegal; it remains illegal. Scalping tends to apply to individuals, tiny operations, that sort of thing. We can deal with those people at that level.

What this legislation does is ensure that there's a fair business model that protects the public against market manipulation—that's the mischief; that's the harm that we're after—to ensure that Ontarians have a level playing field when they spend their hard-earned enter-



tainment dollars. They deserve fairness and a level playing field.

At its heart, then, this is a piece of consumer protection. This is all about consumer protection. That's why the government is moving forward with this bill.

**The Chair (Mr. Lorenzo Berardinetti):** Are we ready to vote? Mr. Kormos?

**Mr. Peter Kormos:** Then why won't the government protect consumers against performers like Lady Gaga?

**Mr. David Zimmer:** That's an artistic question.

**Mr. Ted Chudleigh:** A very good point.

**The Chair (Mr. Lorenzo Berardinetti):** Shall Bill 172, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you.

**Mr. Peter Kormos:** It's been a pleasure doing business with the government on this one.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Kormos. Thank you for that endorsement.

We're adjourned.

*The committee adjourned at 1340.*











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# Official Report of Debates (Hansard)

Thursday 24 March 2011

# Journal des débats (Hansard)

Jeudi 24 mars 2011

## Standing Committee on Justice Policy

Strong Communities through  
Affordable Housing Act, 2011

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 24 March 2011

Jeudi 24 mars 2011

*The committee met at 0830 in committee room 1.*

## COMMITTEE BUSINESS

**The Vice-Chair (Mr. Reza Moridi):** Ladies and gentlemen, welcome to the Standing Committee on Justice Policy. Good morning, everyone. I understand that we have a motion on the floor from Mr. Ted Chudleigh. We have 30 minutes to debate this motion today, so I would invite Mr. Chudleigh to move his motion, please.

**Mr. Ted Chudleigh:** I would like to ask for a recorded vote when the time comes, please.

I would move that the Standing Committee on Justice Policy undertake a comprehensive study that summarizes the revenues and expenditures from the victims' justice fund since 2003 and identifies performance measures to be used to assess the effectiveness of the victims' justice fund's financial allocations in the future.

**The Vice-Chair (Mr. Reza Moridi):** Mr. Chudleigh, would you like to speak to this motion, please? We have 10 minutes for each party.

**Mr. Ted Chudleigh:** Ten minutes for each party? That's agreed to?

**The Vice-Chair (Mr. Reza Moridi):** Agreed?

**Mr. Ted Chudleigh:** The PC Party has a strong record in supporting victims of crime. We continue that record with this motion today, which calls for a review of the victims' justice fund, for today and in the future. Indeed, this motion echoes recommendations made by the Chief Justice, Roy McMurtry, in 2008 and the Ombudsman in 2007.

In 1995, the PC government introduced the Victims' Bill of Rights, which states that victims "should be treated with compassion and fairness," and that "the justice system should operate in a manner that does not increase the suffering of victims of crime." This is not happening under this government.

In 1996, the PC government established the victims' support line and the victim notification system. In 1997, the PC government created the domestic violence court program. In 1998, the PC government created the Office for Victims of Crime and the support link program. In 1999, the PC government created the partner assault response program. In 2000, the PC government introduced the victims' justice action plan, which enhanced

measures ensuring respect for victims' rights and needs. It also established the victims' services division within the Ministry of the Attorney General, which is now called the Victim Services Secretariat. In 2002, the PC government created the bail safety pilot project in a community projects grant program.

This current government, the government of Dalton McGuinty, has not reflected these commitments to crime—in fact, in February of 2011, Dalton McGuinty indicated that crime is not a priority of his government or for Ontarians. This followed on comments by the public safety minister for Canada, Vic Toews, who indicated that the federal government is fulfilling its promise to make criminals pay their full debt to society and to ensure that crooks stay locked up as long as possible. In response to his building more jails, Dalton McGuinty was saying, "When I talk to Ontarians, their first concern is not keeping people in jail longer." The Premier needs to listen harder. The PC caucus is hearing that Ontarians want their families to be safe. Ontario families want to live in safe communities.

Further, the Liberal government was very slow to respond to the horrific experiences of parents affected by the testimonies of Dr. Charles Smith after Justice Goudge released his report on pediatric forensic pathology. There are still over 20 cases before that ad hoc committee, and there has only been one settlement that I'm aware of. After these victims have had such horrendous experiences because of Dr. Charles Smith, I think more effort could be made in that regard to come to some conclusions for the people affected by those decisions.

In March 2011, the Toronto Star reported that three mothers were denied compensation by the Criminal Injuries Compensation Board because they did not meet the mental or nervous shock criteria.

In his 2008 report on assistance for victims of crime, the Honourable Roy McMurtry recommended that the term "mental or nervous shock" be broadened to "emotional harm." He wrote, "It is absolutely clear that victims of violent crime very often suffer significant emotional injury. However, such emotional injury does not necessarily mean that they have suffered the kind of psychiatric injury that 'mental or nervous shock' connotes."

It is appalling that changes have not been made and mothers—such as Liz Hoage—whose children have been murdered, are not treated as victims of crime by the Criminal Injuries Compensation Board. We believe that



this must change and change soon. The government should reflect on the values of Ontario families, and I have no doubt how Ontario families feel about compensation for mothers who lose a child to violent crime, and this government is not reflecting those values. Despite reports in 2007 and 2008, the Liberal government has not done enough to ensure that parents whose children are murdered but who do not witness the crime are treated with respect.

In the Ombudsman's report of 2007, he noted, "The Criminal Injuries Compensation Board is in deplorable shape.... As a result, instead of providing relief, the Criminal Injuries Compensation Board too often adds insult to injury."

The Ombudsman noted, "The province has proclaimed a grandiose program of support through the Compensation for Victims of Crime Act, but then imposed fiscal control so tightly that it has choked off not only the Criminal Injuries Compensation Board's effectiveness, but its compassion as well. Today, the primary responsibility for this lies with the present government, and urgent action is needed."

Further, he recognized that, "In Ontario, the practice has evolved of treating the victim justice fund as exclusively for existing and enhanced services for victims of crime. This has been inexplicably interpreted to mean projects other than the Criminal Injuries Compensation Board.... As a result, the victim justice fund takes on the character of a paper promise to victims; its funds sit largely unused while the Criminal Injuries Compensation Board struggles on, choked for funds." That's from the Ombudsman.

In former Chief Justice Roy McMurtry's report, the chief justice recognizes the victims' justice fund "is posing as money expended on victims' rights, when in fact it sits, with its large surplus, as a little-used line item on the government books."

In so doing, he recommended that the ministry should publish an annual report for victim services, which has not been done. He also recommended that the ministry should conduct a review at least every four years of the needs of crime victims and how to best address these needs and the availability and use of victim services. Again, this has not been done. And he recommended that the ministry should "establish performance measures for both financial assistance programs and should regularly evaluate the programs against these measures." Again, this has not been done.

The victims of crime act was established, and under that act, the Criminal Injuries Compensation Board was established. The Liberal government in council has the authority to make regulations prescribing rules of practice and procedure in respect of applications to the board and proceedings of the board. No regulations have been made under this act.

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Compensation for victims of crime is taken from the consolidated revenue fund. However, the ministry had regularly supplemented the CICB's budgets with funds transferred from the victims' justice fund.

**The Vice-Chair (Mr. Reza Moridi):** Mr. Chudleigh, you have two minutes.

**Mr. Ted Chudleigh:** Thank you, Mr. Chairman.

The victims' justice fund was continued in the PC Party's Victims' Bill of Rights. Regarding the victims' justice fund, the Victims' Bill of Rights says, "The money paid into the victims' justice fund account shall be used to assist victims, whether by supporting programs that provide assistance to victims, by making grants to community agencies assisting victims...."

Under the PC government, under the leadership of Tim Hudak, we'll act to support victims of crime. As Premier, he will release the victims' justice fund surplus to victims and law enforcement agencies. He will ensure that the definition the Criminal Injuries Compensation Board uses to determine compensation reflects the needs of victims and the values of Ontario families. He will ensure that the representation on the Criminal Injuries Compensation Board includes victims.

In summary, despite the Ombudsman's report of 2007 and the Honourable Roy McMurtry's report of 2008, this Liberal government, under Dalton McGuinty, has done nothing to improve the accessibility of funds, fix shortfalls in the compensation scheme for mothers like Liz Hoage or to ensure victims' representation on the Criminal Injuries Compensation Board.

I hope, to strengthen Ontario's support for victims of crime, that the Liberal members of this committee will support my motion today.

Thank you very much, Mr. Chair.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Chudleigh, for your presentation.

Now it's time for the NDP. Mr. Kormos.

**Mr. Peter Kormos:** On the contrary, it's time for the government. Mr. Chudleigh has put his motion forward. I suspect the parliamentary assistant to the Attorney General is going to respond. I know him to be a fair-minded person, a judicious person. I know him to be a caring person. I anticipate that he may well be endorsing the proposition because of his nature, as I've just described it, in which case there will be no need for me to address the matter, will there?

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Kormos.

Now it's time for the government members. Mr. Zimmer.

**Mr. David Zimmer:** Just a couple of introductory comments. The VJF is a fund dedicated to assist victims of crime. The money in the VJF is collected from the court-imposed fines under the Provincial Offences Act, the Criminal Code and the federal offences act. The Victims' Bill of Rights specifies that the money paid into the fund is to be used to assist victims, whether by supporting victim programs that provide assistance to victims or by making grants to community agencies assisting victims or otherwise.

The premise of Mr. Chudleigh's motion is that there is a big chunk of money sitting there that is not being used for the purposes of the VJF, so here are the facts on that:



First of all, the act requires that we maintain a contingency amount in the amount of \$6 million, so that's there. Secondly, there is \$25 million there that is to be spent on program commitments already made on an ongoing basis, and thirdly, the uncommitted funds are actually, then, in the amount of \$3 million.

Those are the facts, and they don't in any way jive or connect in any way with Mr. Chudleigh's premise that there's a huge amount, somewhere in the order of \$30 million or so, sitting there. The amounts are, again, for the record: You're required to have a \$6-million contingency amount there, and that's required by the governing act. There is \$25 million for ongoing program commitments, and there's an uncommitted amount of \$3 million—

*Interjection.*

**Mr. David Zimmer:** Just let me finish—uncommitted funds of actually \$3 million there that are used by the board for awards and so forth—so, no idea where you got your numbers from, Mr. Chudleigh. For that reason, we will not be supporting your motion.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Mr. Zimmer, for your presentation. Mr. Kormos, do you have any comments?

**Mr. Peter Kormos:** What is the matter with you people? There was a time when the standing orders provided for an individual member to bring a matter before the committee as of right. That member didn't require two thirds of the committee to support that proposition.

Take a look at 126(b). It's one of the few standing orders left that give individual members some opportunity to raise matters in the appropriate committee, the committee that has jurisdiction. Nobody's arguing that this committee doesn't have jurisdiction over the issues raised in Chudleigh's motion. Take a look at 126(b), and you'll see that the discussion of the matter cannot take precedence over any government business, so the discussion of the matter can't be used to block government business; that's number one. Two, the committee retains control of its process not with a two-thirds majority but with a simple majority; it takes a super-majority, a two-thirds majority, for this motion to pass.

The government, by its very presence on the committee, controls the process; that means the number of witnesses who are called, the amount of time that's spent discussing it and the nature and tone of the final report, for Pete's sake.

If you dispute the proposition by Mr. Chudleigh—and look, I dearly wish that he had not invoked the Victims' Bill of Rights; that was the weakest part of his argument because we know what the courts said about the Victims' Bill of Rights, but that's a separate issue—then let's lay the numbers out. Quite frankly, his motion is rather turgidly phrased but nonetheless, I submit, worded in such a way that it would permit a broad consideration of the existing approach to compensation of victims.

It would give an opportunity for this committee to make comment on the McMurtry recommendations, on the Ombudsman recommendations and on what every-

body agrees is a sordid state of affairs, when mothers of slaughtered children can't get compensation because they didn't witness it. Good God. Does that reduce the impact or the pain or the trauma? I think not. I suspect that nobody here would disagree with me in that regard.

The Premier promises action, but he has been promising that for a good chunk of time. I understand that these things don't happen overnight. If this committee were to have the chance to consider the matters spoken of in the Chudleigh motion, it could then file a report and table it with the House. That could well spur the government, by virtue of giving the Attorney General himself some authority, the ability in cabinet—because it's all about the pecking order; it's all about getting your matter prioritized, isn't it? This committee's report would give the Attorney General a little bit of ammunition when it comes to the Premier's office and the gates that control the business flowing through the government to say, "Look, the committee has recommended that we look at this," or, "The committee had recommended that we do (a), (b), (c) or (d)."

Chudleigh's submissions were engorged with partisan rhetoric. So be it. We're in the midst of a federal election campaign and we're looking forward to a provincial one. But at the end of the day, this truly is—even the Chudleigh motion—a non-partisan matter. All of us care about these things. We should. And we should care about seeing them addressed.

My fear is that nothing will happen but for the possibility of a mere announcement prior to October 6. I say to you, I suspect the parliamentary assistant will be back here after October 6; he may be the opposition critic for justice—

*Interjection.*

**Mr. Peter Kormos:** These things happen. I'm not suggesting that October 6 is going to completely eliminate the Liberal caucus. There are some good members who are going to return. As I say, the parliamentary assistant is probably going to be one of them. In the event that Ms. Horwath is not the Premier, I look forward, should I be blessed with re-election, to working with Mr. Zimmer as the NDP justice critic of the government.

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This is an opportunity for this committee, in relatively short order and inexpensively, to have an impact and to help push the agenda along in a way that everybody agrees should happen. To deny this modest proposal undermines what little is left of the opportunity for individual members to bring matters before committees for committees to consider them. That, I say, is a sad, sad thing, because then this committee becomes nothing more than the imprimatur, the rubber stamp, of the government of the day, and none of us should want that, especially in view of the fact that the government of the day will not always be the government of the day. That's a given.

So I urge the government to support this motion, one, on the very substantive grounds that it's a valid matter for the committee to consider and that the committee can



do some useful work. The government needn't fear about it being protracted, because the government will control, by virtue of its numbers on the committee, the process around the consideration of the motion. Secondly, and in a far broader way and perhaps even more importantly, to underscore that committees control their own process. I want the record to note that I'm being very sarcastic when I suggest that government House leaders don't control what their members do in a committee when it comes to deciding what bills to consider or whether private members' business should be considered even when there's no government business that would take precedence over it. The sarcasm is underscored.

Stand up. Let the Premier know that that's not how you believe the committee process should be determined; that you believe in the traditional, democratic and parliamentary role of committees; you believe in the principle that committees control their own process. You can declare that today by supporting this motion. Oh, the people in the Premier's office will be scurrying. The BlackBerrys will just be buzzing. You'll be able to microwave a chicken on all of the radiation that's being emitted by those BlackBerrys and the twittering and the cellphone calls that go on between all the little functionaries—and there are big ones—and the Premier's office and the Ministry of the Attorney General. But so what? So be it.

You've got six months left here—eight and a half weeks of sitting. This is your last chance to have a kick at the can. It is. You may find yourself in the opposition ranks, next go-round. If you deny this, you are certainly setting yourselves up to never be successful in your own right as an opposition member should you seek a 126(b) consideration before this or any other committee.

Thank you, Chair.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Kormos, for your presentation. We still have some time. Would any member like to make comments? Mr. Zimmer, please.

**Mr. David Zimmer:** I just want to pick up on a comment that Mr. Kormos made. I entirely agree with that. The comment that I agree with is, "Mr. Chudleigh's motion is engorged with rhetoric."

Here are the facts that counter Mr. Chudleigh's engorged rhetoric in his motion: First of all—I have five points here—this government has spent three times as much from the victims' justice fund as the previous government. That means that there has been a whole lot of money going directly to the victims of crime.

Point number 2: The previous government had no plan for how the VJF funds would be used. They sat on a pot of money and allowed it to grow, year after year after year. When we inherited the VJF back in 2003, that unused balance that should have been flowing to victims stood at \$77.7 million. Today, as I said in my earlier comments, the uncommitted funds in the victims' justice fund stand at approximately \$3 million. We've spent \$74 million on assistance to victims. Let me just lay out those numbers again: There's \$3 million in uncommitted funds;

there's a \$6-million statutorily required contingency fund; and there's \$25 million sitting there that is committed to existing and ongoing programs.

Mr. Chudleigh's motion, again, is just engorged with rhetoric for the mischievous purposes of the months leading up to the election. For those reasons, we will not be supporting his motion.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Mr. Zimmer, for your presentation. We still have some time left, so we can have some discussion on this. Ms. Cansfield.

**Mr. Peter Kormos:** On a point of order, Chair: In the interests of rotating, Ms. Elliott, who had her hand raised, would be considered.

**Mrs. Donna H. Cansfield:** Actually, I'm speaking in terms of the fact that we had a scheduled meeting with a number of scheduled guests who have arrived. My clock, and I see the clock in front of me, indicates that it is 9 of the hour, and I think we should continue on with government business.

**The Vice-Chair (Mr. Reza Moridi):** We had 30 minutes for the debate on this motion, and we still have time.

Mr. Kormos, on your point of order, we had 10 minutes for each party, and the government members didn't use their 10 minutes. That's why I'm going to ask Ms. Cansfield to make any comments—if you do have any.

**Mrs. Donna H. Cansfield:** No, just on the time.

**The Vice-Chair (Mr. Reza Moridi):** You don't. Okay. We'll go to Ms. Elliott, please.

**Mrs. Christine Elliott:** Thank you very much, Chair. I will just make a few brief comments.

Quite the contrary: Mr. Zimmer had indicated that he thought this motion was being brought for purely partisan purposes. Absolutely not. In fact, the wording of the motion was taken directly from former Chief Justice McMurtry's report. It is an issue that all of us are concerned with or, as Mr. Kormos indicated, should be concerned with.

I think this is something that does concern people in Ontario. People are outraged that mothers of children who have been killed are not receiving compensation from this fund. They're not receiving compensation; the Criminal Injuries Compensation Board is still dysfunctional, despite two reports.

This is what gives politics and politicians a bad name, quite frankly—that we aren't dealing with the issues that matter to people. This is a golden opportunity for us to be seized of this, as members of the justice committee. I'm frankly really disappointed that we're not taking this opportunity to have meaningful input, as members, on issues that are important to all of our constituents.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Ms. Elliott, for your presentation.

Mr. Kormos, do you have any—

**Mr. Peter Kormos:** No. And I don't want to criticize Mr. Zimmer's note-taking, but when I talked about partisanship, I didn't speak about the motion as being partisan; I spoke about some of the arguments presented by Mr. Chudleigh. I'm sure that Mr. Zimmer understood



that, because he's a fair-minded person, and a reasonable person and an intelligent one.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Kormos, for your presentation. Is there any further discussion?

**Mr. David Zimmer:** Do we have a couple of minutes left here?

**The Vice-Chair (Mr. Reza Moridi):** Yes, just a minute and a half—a minute.

**Mr. David Zimmer:** I just wanted to add the comment that former Chief Justice McMurtry has, from time to time, recognized that Ontario has been and is a leader in victim services, compensation and attending to the needs of victim services. I have a list of programs that we've developed since 2003 that are recognized by the justice community as really sort of leading-edge programs, and it's those programs to which the figure of \$25 million that I used has been committed. So for the third time, to drive it home, Mr. Chudleigh, the numbers are \$3 million in uncommitted funds sitting there, \$25 million committed to programs and a \$6-million contingency fund required by the statute.

0900

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Mr. Zimmer, for your presentation. Now it's time for putting this to a vote. I've been requested to have a recorded vote.

**Ayes**

Chudleigh, Elliott, Kormos.

**Nays**

Balkissoon, Cansfield, Colle, Rinaldi, Zimmer.

**The Vice-Chair (Mr. Reza Moridi):** That motion is lost.

#### SUBCOMMITTEE REPORT

**The Vice-Chair (Mr. Reza Moridi):** Our next business is the subcommittee report on committee business. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Your subcommittee met on Thursday, March 10, 2011, to consider the method of proceeding on Bill 140, An Act to enact the Housing Services Act, 2010, repeal the Social Housing Reform Act, 2000 and make complementary and other amendments to other Acts, and recommends the following:

(1) That the committee meet in Toronto on Thursday, March 24 and Thursday, March 31, 2011, for the purpose of holding public hearings.

(2) That the committee clerk, with the authorization of the Chair, post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and the Canada NewsWire.

(3) That the committee clerk, with the authorization of the Chair, place an advertisement regarding public hear-

ings in the Toronto Star, Metro and L'Express during the week of March 14, 2011.

(4) That interested parties who wish to be considered to make an oral presentation contact the committee clerk by 5 p.m. on Tuesday, March 22, 2011.

(5) That witnesses be scheduled on a first-come, first-served basis.

(6) That groups and individuals be offered 15 minutes for their presentation. This time is to include questions from the committee.

(7) That the deadline for written submissions be 5 p.m. on Thursday, March 31, 2011.

(8) That the research officer provide the committee with a summary of the presentations by Tuesday, April 5, 2011.

(9) That, for administrative purposes, proposed amendments be filed with the committee clerk by 5 p.m. on Tuesday, April 5, 2011.

(10) That the committee meet for the purpose of clause-by-clause consideration of the bill on Thursday, April 7, 2011.

(11) That the committee clerk, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's the report of your subcommittee, Mr. Chair.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Mr. Balkissoon. Any debate? There being none, all in favour? Carried.

#### STRONG COMMUNITIES THROUGH AFFORDABLE HOUSING ACT, 2011

#### LOI DE 2011 FAVORISANT DES COLLECTIVITÉS FORTES GRÂCE AU LOGEMENT ABORDABLE

Consideration of Bill 140, An Act to enact the Housing Services Act, 2011, repeal the Social Housing Reform Act, 2000 and make complementary and other amendments to other Acts / Projet de loi 140, Loi édictant la Loi de 2011 sur les services de logement, abrogeant la Loi de 2000 sur la réforme du logement social et apportant des modifications corrélatives et autres à d'autres lois.

#### ONTARIO NON-PROFIT HOUSING ASSOCIATION

**The Vice-Chair (Mr. Reza Moridi):** Now I would like to invite the first presenter to come to the table, please. Please introduce yourselves for Hansard. You have 15 minutes.

**Mr. Keith Ward:** I will. Thank you, Mr. Vice-Chair.

My name is Keith Ward. I am the president of the Ontario Non-Profit Housing Association or ONPHA. With me here today is Sharad Kerur, ONPHA's executive director.



**The Vice-Chair (Mr. Reza Moridi):** Thank you, Mr. Ward. You have 15 minutes to make your presentation, and if there is any time left at the end, there will be questions.

**Mr. Keith Ward:** Thank you, Mr. Vice-Chair. We would like to thank the committee for inviting ONPHA to make a presentation on what is a historic piece of legislation that is premised on assisting local communities to address their housing needs.

For over 20 years, we in ONPHA have been the voice of non-profit housing across Ontario. We now have 760 member organizations with more than 160,000 units and over 400,000 people living in those, and that comprises every possible type of household: low-income families, people requiring supports to live independently, seniors and so on.

Our members do constitute the largest group by far—aside from our residents, of course—of those who are impacted by this legislation, so it's perhaps appropriate that we're the first among equals to be before you today.

One of the key goals we sought in both the long-term affordable housing strategy and this legislation was to ensure local flexibility for communities in the design of housing and homelessness solutions. We really encourage that; we applaud it. We recognize that this goal has been attained in Bill 140. However, we are concerned it has gone too far at the expense of a strong and effective stewardship role for the province.

We believe that the surest way to develop a robust housing and homelessness system that works uniformly across Ontario is by balancing provincial stewardship with local flexibility. These roles are not quite balanced in the current legislation, and if that imbalance is not addressed, it will lead to an excessively fragmented housing system and delivery across the province. We don't believe that has been this government's intention.

We are pleased to see in the legislation a vision that acknowledges that it is a matter of provincial interest for there to be a role for community-based non-profit housing and non-profit housing co-operatives. Non-profit housing was developed in response to local necessity and as a way to stimulate economic recovery while meeting the needs of people not served by private housing markets. This government has clearly demonstrated a commitment to the non-profit housing sector with its investment over the past eight years in both new housing and capital repairs.

I'll ad lib; there's a budget coming up.

Although we are tabling a series of key amendments to Bill 140, in the limited time I have, I would like to highlight four areas we believe will strengthen Ontario's housing system.

First, while we agree that the 10 areas of provincial interest under subsection 4(1) are important, we see some obvious omissions. We recommend that this section refer to the direct link between housing and the province's related interests in health, education and the economy. Studies have documented the dramatic, positive impact of safe, decent and affordable housing. These confirm

what we all know intuitively: Without a real place to live, it is next to impossible to make everything else in your life come together as it's supposed to. This section should reflect the province's interest in contributing to positive health and education outcomes for Ontarians and to economic growth.

Among the other interests we have listed, we also recommend that it is in the provincial interest to expand the permanent supply of affordable and subsidized housing under the control of non-profit corporations. Studies have shown that the non-profit model is an efficient delivery mechanism to deal with limited dollars and to help various tenant populations with distinct and unique needs beyond income support. Given the current economic reality and limited government resources, this bill and the provincial interests must prepare Ontario for the future.

Second, we recommend a strengthened role for the Minister of Municipal Affairs and Housing related to local housing and homelessness plans. The minister must not just review and make comment, but should actually approve such plans. As part of this requirement, the minister should be given the power and duty to consult with ministries, such as MOHLTC and MCSS, which have direct support service roles to play. They are active in our projects. Local plans will include a supportive housing component for seniors, the homeless and hard-to-house, and persons with developmental disabilities and mental health or other issues. These support services are critical to the Housing First principle which the government has recognized in both the housing strategy and the legislation, and they require coordination at the provincial level, as well as the municipal level.

Third, we recommend that Bill 140 be amended to require ministerial consent when dealing with receiver-ship remedies involving the sale of assets. The province has recognized that it is in their interest to have a role for the community-based non-profit sector and, as such, must ensure that this sector is preserved. Ministerial consent will ensure that due consideration is given, from a business case standpoint, to all the complications that asset sale uniquely entails, including the province's own liabilities. It will also ensure that respect for the taxpayer is demonstrated, given that these assets have been built and maintained over a series of decades with investments of billions of taxpayer dollars.

Fourth, we recommend that the province strengthen the supervisory management provisions of the bill for projects in difficulty. Within that, the province should play a key role in dealing with the appeal of decisions in disputes between service managers and housing providers. The express goals of the legislation should be to take all courses of action possible to ensure projects do not get into difficulty, or if they are in difficulty, ensure that they are returned to a state in which they can maintain their originating mandate.

In closing, we would like to reiterate our conviction that this legislation must be amended to ensure a responsible and effective balance between provincial



stewardship and local flexibility. It is in the best interests of all Ontarians, and of low-income and vulnerable citizens in particular, that this balance be achieved.

While this legislation provides a framework for communities to address local housing problems with local housing solutions, the province must also retain its leadership role to ensure housing solutions for the province as a whole. In other words, it must establish a clear baseline from which local communities can work. An amended Bill 140 will be the key to making this happen.

0910

Again, Mr. Vice-Chair, thank you for the opportunity to speak with you this morning.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Ward, for your presentation. Now we have some time for questions, starting with the PC Party.

**Mrs. Christine Elliott:** Thank you very much for your presentation. I was particularly interested—I notice that you have a number of amendments that we'll be dealing with later—in the many issues that you deal with: people with developmental disabilities, mental health issues and so on. Is there anything in particular that you think needs to be addressed with respect to your amendments to make sure that this bill responds to the needs of those populations?

**Mr. Keith Ward:** Generally, we're looking for that coordination amongst all of the ministries because, again, the housing and support funding has to come together to work effectively. People are working, frankly, in silos still. It is very challenging: Different rules apply to different types of housing, even though they're all doing the same thing, depending upon who's providing that funding. That's the underlying principle of what we're putting forward in that area. The underlying principle is just to get some coordination and consistency.

**Mrs. Christine Elliott:** Thank you.

**The Vice-Chair (Mr. Reza Moridi):** Mr. Kormos, please.

**Mr. Peter Kormos:** Thank you, gentlemen. You submit that this legislation must be amended. And if it's not?

**Mr. Keith Ward:** We believe that a few years from now, we will be sitting down and crafting some new legislation because we will have failed.

**Mr. Peter Kormos:** What are you advising the members of this committee? Are you advising the members of the committee that if the legislation isn't amended, this committee should not report the bill back to the House?

**Mr. Keith Ward:** No, sir. That's your prerogative as a committee, of course. We believe the legislation, the bill, should be amended, but most of what it does is the right thing.

**Mr. Peter Kormos:** That's all I was trying to learn from you. You didn't say "should be amended"; you said "must be amended."

**Mr. Keith Ward:** Fair enough.

**The Vice-Chair (Mr. Reza Moridi):** Government members?

**Mrs. Donna H. Cansfield:** Thank you for your presentation. It's been a pleasure to be able to work with you in the last year. It's 400,000 people, I think, you serve.

**Mr. Keith Ward:** Yes.

**Mrs. Donna H. Cansfield:** And you should be commended for the work that you do in the non-profit sector in housing. I know that it has been a challenge in the past, and as we move forward into the future—I think we've invested some \$2.5 billion—hopefully, we can continue to work together.

One of the challenges you've identified is there are some things that you believe have been omitted or omissions within that need some amendment. I think it's also important to recognize that maybe you identified some of that just previously in your comments, that we have actually come a long way—

**Mr. Keith Ward:** Definitely.

**Mrs. Donna H. Cansfield:** We have been doing something. My question to you: Is there anything that had been done previously that is not here or that we could improve upon as we move forward?

**Mr. Sharad Kerur:** Let me answer that. I think one of the things we've always noticed—and it's not unique to the housing sector; we see this in many industries and many sectors as well—is trying to determine whether a decentralized method of operation that meets local needs is a better way to move forward as compared to a centralized means. Naturally, a decentralized situation allows you to address local needs in a very specific way, but in some cases, that might be at the expense of, say, economies of scale. There tends to be a swing to and fro between a centralized system and a decentralized system. The housing sector is one example where we had a centralized form of housing delivery, essentially, for a number of decades. We have now moved it down to a local level. It has worked well.

Perhaps the bill goes a little too far, as we've said, in terms of giving the local flexibility at the expense of not having some centralized stewardship. So I think what we're trying to do is find that balanced tipping point between centralization and decentralization. A lot of what we're talking about in amending the bill is just to bring it back from swinging too far at a local level.

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Vice-Chair (Mr. Reza Moridi):** Thank you for your presentation.

#### REGIONAL MUNICIPALITY OF YORK

**The Vice-Chair (Mr. Reza Moridi):** We invite our next presenter, please. Thank you for coming. Could you please introduce yourself for Hansard, please?

**Ms. Sylvia Patterson:** Good morning. My name's Sylvia Patterson. I'm the general manager of housing and long-term care for the regional municipality of York. I have with me today Kerry Hobbs, who's our manager of housing administration. Thank you for the opportunity to speak with you.

**The Vice-Chair (Mr. Reza Moridi):** Thank you. You have 15 minutes for your presentation. If we have extra



time at the end, then we'll have questions. Ms. Patterson, please go ahead.

**Ms. Sylvia Patterson:** As you may know, the region of York is made up of a confederation of nine municipalities and provides services to over one million residents. The region provides services for its residents and businesses that include transportation, transit, water, waste water, emergency services, policing, human services and growth management. The region is the consolidated municipal services manager for housing and homelessness programs as designated by the province. The region's social housing portfolio exceeds 6,000 units and is delivered in partnership with more than 40 community-based housing providers.

The region applauds the progress the province has made in supporting local planning and program delivery by moving forward with this bill, but we also appreciate the opportunity to suggest some improvements and comment on some areas where key concerns are not addressed.

This bill is a significant step forward.

As a service manager responsible for funding and administration of housing and homelessness programs, the region commends the province for the commitments made to consolidate programs and support local system planning. This redefined relationship, with the province as the system steward and the service manager responsible for local planning and program delivery, effectively completes the local services realignment exercise that began more than a decade ago.

We applaud the province for the process that we've engaged in. It has been meaningful. As well, we believe that we've had an effective stakeholder engagement process to inform the bill. We acknowledge and appreciate the province's commitment to developing thoughtful, well-informed public policy, and to that end propose this submission.

You will hear similar perspectives from our Association of Municipalities of Ontario colleagues and Ontario Municipal Social Services Association later today. I would like to say that I think on the municipal side we've had an effective process of working together with the province through this piece.

Unfortunately, the bill does not speak to several vital policy issues. We need legislative provisions to require that public investment in social housing is protected. Taxpayers have invested billions of dollars in social housing stock, and we need provincial leadership to ensure that this investment is protected for the long term.

At present, there's no legal provision requiring that social housing assets be maintained for social housing purposes once the first mortgages have been discharged. Some housing providers will be in a position to sell their buildings beginning as early as 2015, when the oldest programs reach maturity. For municipalities that have made and continue to make major investments in this portfolio, this is an unacceptable risk. This is a critical issue that could be addressed by way of this new act with a requirement providing that social housing assets must

be maintained for housing purposes unless the service manager is satisfied that it is no longer practical to do so.

There are no funding programs or financing tools to sustain the existing housing portfolio. I'll start this by saying that we've been extremely grateful in the housing sector for the support we've received through the Canada-Ontario infrastructure program and through the social housing repair and retrofit program as both an economic support program but also as a short-term infusion into a system that desperately needed it.

However, our housing is a critical component of the human services infrastructure system and, like any other infrastructure, must be appropriately maintained to ensure that the useful life of those assets is maximized. Most importantly, ongoing investments are essential to ensuring that our residents enjoy safe, well-maintained homes.

Historically, social housing programs were not designed to build the necessary reserves to maintain buildings for their lives. Many housing providers will soon or have already depleted their reserves. Once the stimulus funding programs end, those providers will have no access to financing or funding programs to support further building repairs. Service managers have limited capacity to address these concerns through the municipal tax levy. New options are needed.

**0920**

Unfortunately, the strategy and this act are silent with respect to the repair funding deficit, which is arguably the greatest threat to the sustainability of the system. We need access to new funding and financing programs and we need better regulatory tools as service managers to support redevelopment of buildings that are reaching the end of their useful lives.

The success of local housing and homelessness plans depends on long-term sustainable provincial investments. We recognize we're operating in a context of economic constraint. However, we would be remiss if we did not acknowledge that the lack of long-term, sustainable funding to meaningfully address local housing need is the greatest barrier to the success of local planning. It's helpful to have more flexibility, but without additional investment, the thousands of people on our waiting lists will continue to wait.

Since the onset of the most recent recession, the waiting list for rent-geared-to-income housing in York Region has grown by 40%. There are currently 7,700 households on our waiting list. In recent years, only about 400 applicants have been housed each year. This year, it has been worse than ever. At that rate, it will take more than 19 years, if we just stopped today, to house everyone. There's an urgent need to address housing need in Ontario.

As well, there are technical issues with the act that should be addressed to improve our ability to effectively deliver housing programs. We would ask that section 157 be removed in favour of new procedural fairness guidelines.

Our relationship has evolved over time provincially and municipally, and has become more sophisticated.



The province has acknowledged that municipalities are a mature, accountable level of government. Section 157 is inconsistent with the provincial recognition of the competence of local government. As currently proposed, it would require service managers to create local systems to respond to housing provider requests for a review of our decisions.

The decisions for which reviews are most likely to be sought are those that have been made by municipal councils in their service manager capacity. Requiring a council to empower a local, unelected body to overturn its decisions is untenable. The common interest in ensuring that housing providers benefit from well-informed decisions would be better met by incorporating new procedural fairness guidelines in the act.

The enforcement provisions proposed would be problematic as well. We would suggest that they're excessively prescriptive and, in some cases, impractical, and require amendment. We've made some suggestions as to revisions that would support that to create a better-balanced accountability framework that allows a more proactive approach.

We agree that service managers should be accountable to fulfill prescribed obligations. However, section 42 should be amended. Section 42 directly imports service level standard language set out in the Social Housing Reform Act which reflects an outdated perspective on service managers' role in the system. The current standards have no relationship to the waiting list or the RGI system rules and, as such, they require work that really is of no value.

A transition strategy is required to ensure that any new rent-geared-to-income system does not disadvantaged vulnerable tenants. The existing rent-geared-to-income system is complicated and difficult to navigate. We support the government's work in looking at a transition to an income tax-based system. However, we would urge you to ensure the transition is made in a thoughtful, measured way.

The current system is complicated in part because the lives of the people involved are complicated. Any new system has to be modelled and tested to ensure that those vulnerable households are not disadvantaged. Moving forward too quickly with an untested system could destabilize the system and create hardship for families. An effective transition will take time, and we hope that the new bill could incorporate provisions to allow that.

Thank you for the opportunity to provide comments today.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Ms. Patterson, for your presentation. Now we have some time for questions. We'll start with the NDP. Mr. Kormos, please.

**Mr. Peter Kormos:** Thank you very much. Your submission had a clarity that I appreciate.

**Ms. Sylvia Patterson:** Thank you.

**Mr. Peter Kormos:** I have no questions.

**The Vice-Chair (Mr. Reza Moridi):** Any questions from the government members? Mr. Colle.

**Mr. Mike Colle:** Thank you for the very insightful presentation. I guess the question I have is this: The region of York is one of the fastest-growing regions probably in North America, with so much construction and housing of all sorts. How is it possible that we've only got 6,000 units? Is there something that we should be doing as a provincial government or the region of York so that, while this building is going on, housing is also provided for the vulnerable and people on marginal incomes? What's missing? I remember that when I went up to the city of Vaughan, it used to be 30,000 or 40,000 people. It's now 250,000 people and 6,000 units. What have we done wrong?

**Ms. Sylvia Patterson:** Thank you for that very insightful question. You're correct. I think the reason is historic; it had to do with growth patterns. At the time when the province and the federal government were making huge investments in social housing in the 1960s and 1970s and again in the late 1980s, early 1990s, the region of York's growth pattern wasn't where some other municipal growth patterns were. We also didn't have the infrastructure, such as sewage, to support significant multi-residential development. That has now changed.

You're quite correct: We are growing at an amazing pace. I think it points out the unevenness in the system delivery today. One of the problems for high-growth municipalities is equity in the system, because we get funding based on historical growth patterns. We need funding based on today's growth patterns, and we need funding that recognizes our need to catch up.

Our council has been investing significantly, but they need help; we need help. We are reaching a point of crisis. We can't house our low-income workers. We've surveyed our waiting list, we've surveyed the people who live in our housing, and we know that most of those households are living on under \$20,000 a year. That means that the private sector doesn't have the capacity to house those people; the dollars simply don't work.

What do we need? We need sustainable funding year over year so that we can get programs in place. We need Planning Act provisions. We again applaud the work that you've done in this bill around second suites; that's import work for our community to see. But we would also like to see progress on the Planning Act side to look at how we can meet the targets that we're setting very aggressively in our official plans—not just at the region, but in communities like Markham, Richmond Hill and Thornhill—to be able to start to meet some of those needs beyond the social housing sector.

**Mr. Mike Colle:** Thank you very much.

**The Vice-Chair (Mr. Reza Moridi):** Ms. Elliott?

**Mrs. Christine Elliott:** Thank you very much. I also truly appreciate your presentation. I have two quick questions. With the number of families that you have on the wait-list right now, what on earth are they doing? Are they living in market rent places and then having to do without?

**Ms. Sylvia Patterson:** They're struggling. What we see is a lot of families tripled, doubled, quadrupled up.



We see people living in very, very substandard housing: jury-rigged, garages, basements. We see a lot of people living on the edge, a lot of tremendous vulnerability of families.

We know what that means in our community: It means all of the effects of poverty. It means kids aren't getting the food they need. It means they aren't getting the educational opportunities they need. Certainly, we will see those impacts through the system.

**Mrs. Christine Elliott:** I did have another quick question, if I could, with respect to your comments about rolling in the new system to make sure that vulnerable people—I guess people with mental health problems, intellectual disabilities and otherwise disabled. Is there anything in particular that we should be mindful of with respect to that in rolling out the new rules?

**Ms. Sylvia Patterson:** I think there are two things, and I think my colleague from the Ontario Non-Profit Housing Corp. pointed it out earlier. The number one issue for all of us in the sector is better coordination. We need the central LHINs at the table. We need all of the ministries that support those households at the table. We can't individually create the best solutions. It is absolutely important, as we roll out any new rent-geared-to-income or waiting list system, that it be understandable, that people know what to expect and that it not be overly difficult to penetrate. We have many, many new Canadians, many people who are coming with interpreters and many people who have mental health challenges. They need to be able to navigate that system effectively.

**Mrs. Christine Elliott:** Thank you very much for clarifying that. I appreciate it.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Ms. Hobbs and Ms. Patterson, for your presentation.

#### ONTARIO HOME BUILDERS' ASSOCIATION

**The Vice-Chair (Mr. Reza Moridi):** Our next presenters are from the Ontario Home Builders' Association.

**Mr. Bob Finnigan:** Good morning.

**The Vice-Chair (Mr. Reza Moridi):** Good morning. Would you please introduce yourself for Hansard?

**Mr. Bob Finnigan:** Sure. Mr. Chairman and members of the committee, my name is Bob Finnigan, and I am the president of the Ontario Home Builders' Association. I'm also the chief operating officer of Heathwood Homes, which primarily builds multiple- and single-family homes in the GTA as an Energy Star builder. I am a volunteer member of the association, and in addition to my business and personal responsibilities, I'm very dedicated to serving the industry. Joining me is Michael Collins-Williams, OHBA's director of policy.

0930

The Ontario Home Builders' Association is the voice of the residential construction industry across Ontario. Our association includes 4,000 members organized into 29 local associations across the province. The residential construction industry is the largest and most important

industry in the province; our sector supports over 334,000 jobs here in Ontario, paying some \$17 billion in wages and contributing \$34.4 billion to the provincial economy. Putting those numbers aside, I think all you really have to do is look south of the border to understand just how important a healthy and strong housing market is to the broader economy.

I'm pleased to be here today to address the committee and to speak in strong support of Bill 140, the Strong Communities through Affordable Housing Act.

The three basic elements for human survival are food, water and shelter. As a home builder, I'm in the business of providing not only shelter, but a place of refuge, respite and sanctuary from life's storms. We provide a place called home, where people live, laugh, share their dreams, shape their traditions, create memories and, most of all, feel secure. Unfortunately, all of us are here today because, for many Ontario people, a simple roof over their head, let alone the distant dream of home ownership, is an unattainable proposition.

As a home builder and as an association, the adequate supply of quality housing for persons of all means is essential in our modern, compassionate society. Members of the Ontario Home Builders' Association construct a wide range of housing, and many of our members are actively involved in the affordable housing sector.

I can tell you from my own experience with Habitat for Humanity that turning those keys over to a family in need is something that you'll always cherish and remember, and I encourage everyone in the room to pick up a hammer one day and contribute. To that end, OHBA is actually organizing a humanitarian build this fall, in which we are taking a group of our members to an impoverished community in the Dominican Republic to construct six homes for a number of families in desperate need.

When the provincial government initially announced that it was committing to produce a poverty reduction strategy, OHBA immediately got involved and worked with a number of other organizations to produce joint recommendations to assist in improving the standard of living for many Ontarians. OHBA was again involved in the subsequent consultation on a long-term affordable housing strategy, and we put forward six key recommendations:

(1) Require municipalities to permit as-of-right secondary suites across Ontario.

(2) Remove government-imposed cost and regulatory barriers to the supply of land and new housing, which constrain housing opportunities to lower-income households.

(3) Create a long-term portable housing allowance program to provide immediate assistance to low-income households who have housing affordability problems.

(4) Stop the regressive taxation of tenants by equalizing residential and multi-residential property tax rates across Ontario.

(5) Address homelessness by focusing on special needs housing and services for the truly needy and in-



tegrating enhanced support services within housing projects.

(6) Make strategic investments to repair and upgrade Ontario's existing social housing stock.

I can state that during extensive province-wide consultations with a broad range of stakeholders, OHBA's primary recommendation was our strong support for measures to reduce the barriers for secondary suites in communities across Ontario. OHBA strongly endorses the inclusion of secondary suites in the strategy, and we applaud the province for their efforts to enhance affordable options for Ontarians.

Secondary suites offer a valuable opportunity to create a new supply of affordable housing in both new and existing communities for seniors, students and families, and make it happen quickly. Home builders believe that this is a broad-based solution that will create more equity and choice for renter households by providing access to communities in which they were previously excluded. Furthermore, secondary suites provide an important source of income for younger families and first-time homebuyers struggling to make mortgage payments. This really is a win-win situation in terms of affordability both for renters and for homeowners.

Secondary suites also present an opportunity to reduce the strain on the health care system when aging parents can move in with their children to provide them with security, care and privacy. We're only at the beginning of the baby boomers hitting the 65 age group, and in the next 20 years, we're going to see a huge influx of seniors.

My own personal experience: I have an aging widowed mother on a fixed income, and she lives in a secondary suite in my home and has for the past 10 years. She has her own privacy, but most importantly, she has a support network of family around her. She really just absolutely loves that option for her. I really don't know what the other option would have been had she not been able to move in with me.

Unfortunately, many Ontarians are not so lucky, as most municipalities have extremely constraining bylaws regulating secondary suites, if they allow them at all.

I can't tell you how many builders and renovators I've spoken with that have buyers who approach them regarding elderly parents or dependants with medical conditions that have requested an ensuite apartment in order to provide both affordable independence as well as care, only to be told that they are illegal.

Furthermore, many municipalities go so far as to make the builder and/or the homeowner sign an affidavit swearing that a secondary suite will not be constructed on the property.

There is something terribly wrong with that scenario, and I applaud the province in taking steps to correct the problem.

We have an issue in Ontario where some members of our own communities apply pressure on local councillors to put in place bylaws prohibiting secondary suites. This is NIMBYism at its worst. They just don't want "those" people living in their community. And who are "those"

people? They are our elderly parents; they are our sons and our daughters just getting a start on life; they are students who will one day be our leaders and they are the working poor just trying to get ahead.

It is in the opinion of the OHBA that this constitutes zoning for people rather than zoning for use and is a discriminatory practice that limits housing affordability and choice for a significant proportion of Ontarians.

OHBA is supportive of measures in Bill 140, specifically the amendments to the Planning Act in schedule 2, that ensure that municipal official plans contain policies that authorize the use of secondary residential units.

Furthermore, we are supportive of proposed policies that restrict appeal rights against secondary units. This is an important consideration given the apparent controversy and NIMBY attitudes that are prevalent against affordable secondary housing suites.

OHBA is also supportive of amendments to the Planning Act to create a more permissive framework for garden suites to support affordable housing in rural communities.

OHBA is a long-time supporter of secondary suites as an affordable option that also meets a number of other public policy objectives, including increased levels of intensification as well as allowing seniors to age in place with care from their families and loved ones rather than relying on public facilities.

Secondary suites are a method by which many Ontario households can participate in the affordable housing strategy without government funding. They meet a number of wide-ranging provincial objectives while serving a dual purpose in terms of both an affordable supply of rental accommodation while supporting affordable homeownership by providing a revenue stream for the owners.

Let me conclude by stating that we are supportive of the measures in the proposed legislation regarding secondary suites. OHBA also looks forward to continued future opportunities to provide the provincial government with advice and expertise regarding both affordable market housing as well as subsidized housing.

Lastly, I'll reiterate that as one of the key drivers of the provincial economy, OHBA members pour billions of dollars into the provincial treasury and allow for the expansion of the municipal property tax base. These tax dollars support many of the programs and capital works designed to improve living conditions for vulnerable Ontario families.

I would like to thank you for your attention. I look forward to hearing any comments or questions you have.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Finnigan, for your presentation. Now we have a couple of minutes for each party for questions. We'll start with the government members.

**Mrs. Donna H. Cansfield:** Thank you for your presentation and also for your work during the consultation period. You were virtually there at every event, and participated fully. We are very appreciative.

I say this sincerely. I had the opportunity to, as you know, go to a number of proposed developments to have



an understanding of the building industry. I just think it's important to say thank you for being green. You really have taken a major step forward in building. That too is very appreciated.

One of the far more controversial issues that we discussed was the whole issue around inclusionary zoning. I wondered if I could have your perspective for the committee as well on that particular issue.

**Mr. Bob Finnigan:** Absolutely. Inclusionary zoning is an interesting concept in the housing strategy. We agree, yes, that a few affordable housing units would have been made, but, in general, when you're having 5% or 10% of the units in the building to be subsidized under the inclusionary zoning provisions, the balance of the units are going to go up in cost. So for the provision of a very few number of units, the vast majority of housing costs go up.

It's also very tough to have a housing policy built on an inclusionary zoning policy where only 1% to 2% of the population, at any point in time, is contributing to a housing policy. It also essentially shifts the responsibility of housing the lower income from the broader tax base to just the new homebuyers.

The other problem we have with it is that, once the people are into these affordable units—and we don't know what that means, and we're not just talking about downtown Toronto; inclusionary zoning was to be rolled out province-wide, so single-family housing would have been contemplated as well—what happens when those people move in and then want to sell their units? What happens to the increased equity that they would get in a condo situation, and how it's dealt with at the board level, and things of that nature?

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I think that's really what I have to say about it: Very few pay for it.

**Mrs. Donna H. Cansfield:** I appreciate that. Thank you.

**Mr. Bob Finnigan: The Vice-Chair (Mr. Reza Moridi):** Thank you. Now Ms. Elliott.

**Mrs. Christine Elliott:** I don't have any specific questions. Your presentation was very clear and concise; thank you very much for that, and for your assistance with the consultations leading up to the bill. Best of luck to you in your charitable venture. It sounds very exciting.

**Mr. Bob Finnigan:** Thank you.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Ms. Elliott. Mr. Kormos, please.

**Mr. Peter Kormos:** No, thank you, Chair. Thank you, gentlemen. Mike, you can have my time.

**The Vice-Chair (Mr. Reza Moridi):** Yes, we have time.

**Mr. Mike Colle:** Mr. Finnigan, I just want to applaud the Ontario homebuilders for supporting inclusionary housing. I think that's long—

**Mrs. Donna H. Cansfield:** Secondary suites.

**Mr. Mike Colle:** Secondary suites, but not inclusionary?

**Mr. Bob Finnigan:** No.

**Mr. Mike Colle:** Can you explain that, then?

**Mr. Bob Finnigan:** Why we didn't support inclusionary zoning? The bottom line is that housing affordability is key. When 1% to 2% of the population is subsidizing certain buildings and a certain number of units, it's going to drive the cost of overall housing up. Resale follows new. You're creating a spiral effect of increased costs for the new homes—you increase the price for 95% of the units. That begets a resale pricing increase. You're starting a spiral effect, and it just continues.

There are also fabulous provisions under section 37 of the Planning Act, where any community need can be addressed in terms of housing.

**Mr. Mike Colle:** And why hasn't that been used enough, for instance, in York Region, like it's been used in Toronto for decades? Again, that's the area I'm trying to focus on. All this building is taking place, so I'm asking again: How can we change things so that opportunities through section 37 can be used so you can build and people can be housed?

The secondary suites are great, but we need centres and residential settings for seniors where they can talk to each other and have support services in place. There are all kinds of issues that can't be dealt with in an individual home setting.

Section 37: Why isn't it being used in these new regions?

**Mr. Bob Finnigan:** Do you want to comment on that, Mike?

**Mr. Michael Collins-Williams:** Sure. Section 37 is primarily being used in areas such as downtown Toronto, where you have a lot of the much higher density. Essentially, it sort of acts as a density bonus to provide a community benefit when larger developments with densities beyond what's envisioned come into a community.

Within section 37, there's a variety of different community benefits. It can range from affordable housing—

**Mr. Mike Colle:** Parks.

**Mr. Michael Collins-Williams:** It can range to parks and community centres. Often it comes down to that councillor in that community deciding what's most important to them.

We do find that in some communities, affordable housing is deemed to be important to that community. I'm sure people are familiar with the Minto buildings at Yonge and Eglinton. There was a large fund, through section 37, that went towards affordable housing. But other communities, for better or for worse, may decide that a daycare in a building is what's most important to that community.

We think that section 37 is an important part of the process and we'd encourage communities that have deficient amounts of affordable housing to take a look at that. I'm sure there will be other presentations where they discuss—

**Mr. Mike Colle:** But housing for seniors—why wouldn't the councillor support it? I've got Casa Caboto. Why haven't they sought section 37 provisions to do



housing for seniors? Who could be against that? That's what I can't—

**Mr. Lou Rinaldi:** You know a councillor. You can call them.

**Mr. Michael Collins-Williams:** It's not necessarily who's against it; there are always competing interests of what the community deems most important. In many situations, it would be better if the community and the councillors looked to that option.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much for your presentation.

**Mr. Bob Finnigan:** Thank you very much.

#### CO-OPERATIVE HOUSING FEDERATION OF CANADA, ONTARIO REGION

**The Vice-Chair (Mr. Reza Moridi):** Our next presenters are with the Co-operative Housing Federation of Canada, Ontario region.

You have 15 minutes for your presentation. If there's any time left at the end, we'll have questions. Please introduce yourself for Hansard.

**Mr. Dale Reagan:** Thank you very much. Good morning.

**The Vice-Chair (Mr. Reza Moridi):** Good morning.

**Mr. Dale Reagan:** My name is Dale Reagan. I'm the managing director of the Co-operative Housing Federation of Canada's Ontario region. With me today is someone I think most of you know is our manager of government relations, Harvey Cooper.

Thank you for the opportunity this morning to make a deputation on Bill 140. We're here on behalf of the more than 550 housing co-ops across the province, home to some 125,000 residents.

Since the Social Housing Reform Act was passed over 10 years ago, housing co-ops have struggled to succeed as member-controlled communities and have mounted a series of lobby campaigns to try to get the province to restore community control. Buttons, banners and T-shirts have declared, "We want our co-ops back: Fix the SHRA" and "Upload co-op housing." This has been an issue that has been very important to our members.

Our lobby efforts have resulted in some improvements in the SHRA regulations, but we have recognized that real change could only happen when the act itself was opened up. Bill 140 is the opportunity to restore balance between service managers' powers as regulators of the housing and co-ops' rights and authority as the owners of the housing.

We have submitted to you a brief, that has been circulated now, making a number of detailed recommendations on changes to Bill 140 that we believe would achieve this goal. As you've heard this morning, the Ontario Non-Profit Housing Association is calling for many of the same changes.

In the short time we have available today, we're going to focus our remarks on our overall concerns with the direction of Bill 140 and the critical changes that we feel are necessary. We'll look at the need to rebalance community and government control, concerns with the

default and remedy system that leaves co-ops more vulnerable, program rules that make the sale or takeover of the co-ops easier, and a system for review of service manager decisions that falls short.

Starting with the balance between community and government: In the affordable housing strategy, the Ontario government said it would introduce legislation to replace the Social Housing Reform Act that would "support a community-centred approach" to housing. A key concern identified in the strategy is "protecting non-profit and co-operative housing" and maintaining "community-based approaches to housing."

In Bill 140, the statement of purpose says that the act is designed to increase or "provide flexibility" for housing providers as well as service managers. The bill says that there's a provincial interest in ensuring that the housing system includes "a role for non-profit corporations and co-operatives."

In these three places where the government sets out its policy intent concerning social housing, it says that it is committed to a community-based model of housing, featuring independent co-operative and non-profit housing providers. Unfortunately, for the most part, the actual provisions in Bill 140 fail to deliver on this commitment. Far from creating more balance in the rights and authority of service managers and housing providers, the bill tilts the balance toward much more government control. There are many places in the bill—a great many—that give service managers more flexibility and authority than under the SHRA, but very few that give co-ops more protection and more latitude to run their affairs.

Here are some of the most obvious examples of how housing providers' rights and protections have been eroded under Bill 140: Most significantly, the bill removes the requirement for ministerial consent to sale or transfer of a housing project. We'll touch on this again in a few minutes. In many places, the requirements that the service manager act "reasonably" when making decisions and that a breach of a provider must be "material" or "substantial" have been removed. The rules in the act make it a "triggering event," or a breach, for a provider to incur an operating deficit—that's in one year. Under the SHRA, the test was an "accumulated deficit."

Now, to move to looking at the default and remedies system, a major concern of the housing co-ops is that the default and remedies sections of the act, Bill 140, make it relatively easy for service managers to move from an identified breach by a co-op, of whatever magnitude, to receivership and potential sale, with very limited opportunity for co-ops to protect themselves unless they have the means and the determination to go to court.

CHF Canada has funded several court challenges by co-ops of service manager decisions, and we have been largely successful. The courts have ruled that co-ops have a right to fair treatment and that that was being denied. The new case law has given co-ops some protections and rights that the SHRA itself does not provide.

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We have urged the government to ensure that co-ops receive in Bill 140 the fair treatment in legislation that



the courts have called for. Unfortunately, for the most part, the bill does exactly the opposite, significantly reducing provider rights and protections compared to the SHRA. As drafted, the bill will make it easier for service managers to put more providers into receivership and take them over, and unless amended, it will create an even more adversarial and litigious environment than now exists.

It should be noted that the bill does introduce an important new remedy called supervisory management, designed to reduce the number of receiverships. Service managers would, in some cases, be required to use supervisory management before resorting to receivership, but they can too easily avoid the remedy under the bill if they so choose. Unfortunately, the approach in the legislation is poorly conceived and it amounts to simply an extension of receivership.

Our suggested amendments would deal with these concerns and make sure that the remedy serves as a constructive alternative to receivership and that limits are placed on a service manager's ability to skip this step. We also recommend various amendments to restore protections for providers to ensure that they are treated fairly when a service manager is exercising a remedy.

I'm going to ask Harvey Cooper to conclude our remarks.

**Mr. Harvey Cooper:** On sale or takeover of co-ops made easier: Under the SHRA, the consent of the minister is required for any sale or transfer of a co-op. This requirement has been dropped from Bill 140. The consent of the minister offers co-ops a fundamental protection in the case of conflicts with the municipal authority. This helps to ensure protection of the public interest in the co-op's assets and the fair treatment of all parties involved. This was recognized in a unanimous decision of three Divisional Court judges in the Thornhill Green Co-op case, where the ruling stated: "The Legislature has given two separate governmental entities, the region and the minister, the power to control whether a proposed sale will take place. This ensures that the public interest in social housing and its availability will be taken into account in any proposed disposition of a 'housing project', as defined in the SHRA."

The Ontario system of community-based provision of non-profit housing works only if there is a reasonable balance between the rights and responsibilities of the government regulator and the provider that actually owns the housing and is legally responsible for its successful operation. We feel that the omission of the requirement for ministerial consent from Bill 140 will fundamentally erode the protection of community providers and therefore the public interest.

Without this protection, there is a much greater risk that municipalities could opt to privatize parts of the housing stock or rationalize the portfolio of housing under their administration by converting housing co-ops and community non-profits to municipal housing.

We are also concerned that for the first time, under any social housing legislation or project operating agree-

ment, the Housing Services Act legitimates the forced sale or transfer of community housing. This becomes effectively a remedy under the act to deal with operational issues, whereas previously, sale existed only as a standard power of a receiver to recover debt.

We recommend that the requirement for the consent of the minister for any sale or transfer of a housing project be restored in Bill 140 and appropriate and strict limits on when the use of this remedy is warranted.

The system for review of service manager decisions, we feel, falls short. Housing co-ops have been concerned that a fundamental gap in the SHRA is the lack of any mechanism for co-ops to seek an independent review of a service manager decision. The only option open to them has been expensive and time-consuming litigation. This is clearly not a fair system.

During the affordable housing strategy consultations, co-ops said to the minister that there is the compelling need to put in place a cost-effective and efficient system that housing providers can use to seek a review of a service manager decision. We were pleased to see that Bill 140 included a system for review of service manager decisions. Unfortunately, we do have serious concerns about the model that's outlined in the bill.

Together with ONPHA, we have used the services of Raj Anand, a senior administrative law and human rights lawyer, to review the approach proposed in the bill. His view is that "the protections provided by these sections are inadequate, indeed probably inferior to what presently exists under the common law and the SHRA."

He mentions that the model in the bill lacks independence, it lacks procedural safeguards, it lacks substantive protection and reduces housing providers' current remedies. He advises that a much less intrusive while at the same time more independent system can easily be achieved by providing for an ad hoc or a standing board of independent arbitrators to adjudicate disputes as they arise. The key is that the decision-makers must have the perception and the reality of impartiality. We recommend that Bill 140 be amended to introduce an arbitration system for a review of service manager decisions, and our brief sets out those details.

In closing, co-operative housing in Ontario is a well-documented success story. For over four decades, co-ops have provided good-quality, affordable housing, owned and managed by the community members who live there. We quite appreciate that the province is moving forward with Bill 140. It will provide for more coordination. As part of a long-term affordable housing strategy, it has put the issue on the agenda. That should be applauded.

At the same time, we think there are a number of areas where amendments are in order to make this better public policy. We should refine the supervisory management remedy, as we've already discussed, so that it's a constructive alternative. A number of changes should be made to the default remedy system to add protections for providers to ensure fairness. Restore the requirement for ministerial consent on any sale or transfer of a housing project. Lastly, introduce an arbitration system for review of service manager decisions.



In closing, we want to thank the members of the committee for giving us the opportunity to express our views today, and we would be only too pleased to answer any questions you have. Thank you.

**The Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Reagan and Mr. Cooper. We have a couple of minutes for questions, so brief questions, please. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you for appearing before the committee today. I am interested in the comments you made with respect to establishing the arbitration system. Just to be clear, to make sure I understand it, you're proposing that it be more fully fleshed out in the bill—understanding that some things will need to be left to regulation, but you want the basic structure established within the bill itself. Is that correct?

**Mr. Dale Reagan:** That's right. The approach in the bill needs to be changed to create an independent system. We think the best way to do that, and the one with little cost, because it doesn't have to be a standing arrangement, would be an arbitration system.

**Mrs. Christine Elliott:** Thank you.

**The Vice-Chair (Mr. Reza Moridi):** Mr. Kormos, please.

**Mr. Peter Kormos:** Thank you kindly, gentlemen. I'm interested in your comments about the elimination of the need for consent of the minister and the impact that this will have, especially, as you point out, on the prospect of privatization, the second-to-last paragraph on page 5. Can you paint that picture? Tell us a story about how that could roll out.

**Mr. Harvey Cooper:** Currently, our understanding of the protections of the affordable housing stock that exists in the province is that if a project is going to be sold or transferred in the SHRA for that stock, right now there is a consent has to be obtained from the Minister of Municipal Affairs and Housing. In the bill, that's no longer there.

The second protection is that the number of rent-geared-to-income-assisted units right now is prescribed in the SHRA. They would continue to be prescribed under Bill 140, but that doesn't necessarily mean they have to be provided in non-profit, co-operative or former public housing. Municipalities could come to an arrangement to provide private rent supplements. So they still have to guarantee those assisted dollars, but not necessarily the community-based housing that we think has been very successful over the last 40 years in this province and this country.

**The Vice-Chair (Mr. Reza Moridi):** Thank you. Ms. Cansfield, do you have a question?

**Mrs. Donna H. Cansfield:** Thank you very much for your presentation. I want to say, particularly, thank you for the clause-by-clause. You've made my job a whole lot easier.

**Mr. Harvey Cooper:** We quite appreciate that.

**Mrs. Donna H. Cansfield:** That's wonderful. Thank you. You've raised, I think, a perspective that speaks to a far more balanced approach, from your perspective. I

want to say thank you for identifying those areas where you feel there's some additional work that needs to be done and to let you know that all those things will be taken into consideration by this committee. Thank you so much.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, gentlemen, for your presentation again.

## HOUSING NETWORK OF ONTARIO

**The Vice-Chair (Mr. Reza Moridi):** Our next presenters are from the Housing Network of Ontario. Thank you very much for coming. Please introduce yourselves. You have 15 minutes for your presentation. If there's time left at the end, we'll have questions.

**Mr. John Stapleton:** Thank you, Mr. Chairman. I'm John Stapleton. I'm a Toronto-based social policy analyst, and I'm representing the Housing Network of Ontario.

**Mr. Michael Shapcott:** My name is Michael Shapcott. I'm with the Wellesley Institute and I'm co-chair of the Housing Network of Ontario.

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**The Vice-Chair (Mr. Reza Moridi):** Thank you.

**Mr. John Stapleton:** We are worried that we do not see provisions in Bill 140, sections 41 through 58, which would pin down the formulas for new rent-geared-to-income schedules, and that the special rental scales that apply to low-income residents receiving Ontario Works and Ontario disability support plan benefits could possibly remain as they currently exist now under the outdated SHRA. Without legislative change, the rules currently in place would be allowed to persist. Grave injustices could result if that occurred.

The current rent-geared-to-income rules in the SHRA for social assistance recipients currently appear in tables 3, 4 and 5 of the RGI regulations. The tables should be before you; I won't read them.

Members will note that rent-geared-to-income scales not only contain the rents that social assistance recipients pay; they also contain a special column that sets the point in dollars per month at which recipients' rent jumps from the scale amount to the RGI scale. This latter column, called the non-benefit income limit, is what we wish to address today.

These limits are antiquated, they make no common sense, and they have nothing to do with modern reality. They basically say that a person receiving social assistance should move to full RGI when they have managed to work about 10 hours a week at the minimum wage.

I've written about the effect of this policy on one person who receives ODSP. Her name is Linda Chamberlain. The report is called Zero Dollar Linda, and you should have it today. I'm hoping that Linda can address you next week, as part of your hearings.

Basically, the government has a solution that it may consider if it chooses to fix the present dilemma: to raise the non-benefit income limit—column 3. We propose that it go to 75% of the maximum ODSP, or OW, as the



case may be, as recommended by the Social Assistance Review Advisory Council. This would raise the non-benefit limit to about \$790 a month.

The immediate government objection may be that raising the limits would cost municipalities money. Although true, it would not be the case if the province raised the artificially low rents they administer to social assistance recipients. Recipients themselves would see no effect at all in their net income.

The dilemma has created a long-standing funding standoff. To end it, one level of government or both would have to pay more, and the Ontario government appears to wish that neither government pay anything more. But the consequence is massive rent increases that penalize the work effort of social assistance recipients in RGI housing, especially those who are trying to gain independence. The unemployment rate on the ODSP program right now stands at 89%.

Because of an intergovernmental revenue squabble, we penalize the behaviour which all of us are trying to encourage in recipients. Without this impediment, they could become self-reliant.

We're here today because we worry that without new rules being written into the statute itself, RGI could go in the many different directions that it did within SHRA. There's an opportunity here at this moment to make an important change, and it should be taken.

Thank you.

**The Vice-Chair (Mr. Reza Moridi):** Thank you.

**Mr. Michael Shapcott:** Mr. Chair, I've submitted a detailed written brief that includes information on the depth and persistence of housing insecurity across Ontario. It also identifies a number of important and very welcome initiatives the Ontario government has taken in recent years to address those.

Our fundamental observation, however, is that none of these individual initiatives taken by the government has been sufficient to meet the housing needs of Ontarians, and all of them together don't add up to a comprehensive, long-term affordable housing plan for the province. Again, the details are set out in our written submission.

We're proposing two specific amendments to take up this issue and to move this bill to make it a more complete and comprehensive response to housing issues.

Our first recommendation, which begins on page 3 of our written brief, addresses the inclusionary housing policy. I'll say, Mr. Chair, that we're not actually legislative drafts-people; we've done the honourable tradition of cutting and pasting from others. So the language we proposed is merely language we propose, and we know that others with more expertise can fine-tune.

However, the thrust of our recommendations is that Bill 140 already seeks to amend section 16 of the Planning Act to authorize municipalities to enact secondary suites. We think that should be further amended to authorize municipalities to enact locally appropriate inclusionary housing plans. You'll see that we've suggested some fairly detailed language there that we think covers off a number of the issues in terms of inclusionary housing.

In a word, inclusionary housing is a practice which seeks to ensure that all new developments have a healthy mix of various types of housing for various incomes so that we're developing inclusive and healthy communities rather than exclusive and segregated communities.

Our second recommendation is that Bill 140 be amended to require the provincial government to create a comprehensive, made-in-Ontario affordable housing plan that truly meets the housing needs and respects the housing rights of Ontarians.

Starting on page 9, we have some specific language. We apologize for not being legislative drafts-people, but we offer some language that sets out a process. It doesn't set out specific funding or targets, but says that the minister has to develop a plan that has fundings, targets and timelines, and that it's developed in consultation with all the relevant groups throughout the province.

We'd urge this committee to consider favourably our two recommendations on inclusionary housing and on further amendment to Bill 140, to ensure there's a comprehensive, long-term affordable housing strategy.

Thanks for the opportunity to make these submissions.

**Vice-Chair (Mr. Reza Moridi):** Thank you very much, Mr. Shapcott and Mr. Stapleton. We have some time for questions now. Mr. Kormos? We'll start with the NDP.

**Mr. Peter Kormos:** I don't know if you were here when the Ontario Home Builders' Association made their submission. They had a perspective on inclusionary housing that shocked Mr. Colle and is contrary, 180 degrees opposed, to the position you take.

Their argument, as I understand it, was that it put the cost burden of a few on those other homeowners in that jurisdiction, in that area. How do you respond to that?

**Mr. Michael Shapcott:** I'm sorry, I didn't hear the submission. We have had discussions—

**Mr. Peter Kormos:** But you're familiar with the argument.

**Mr. Michael Shapcott:** We're familiar with the argument. With a policy that's new, or at least new to Canada, there are some people who are afraid of this policy, for natural reasons. It has been tried and tested in hundreds of US cities. I've included, as an attachment to our submission, details from our inclusionary housing consultant, who did tour US cities—

**Mr. Peter Kormos:** Where's that?

**Mr. Michael Shapcott:** It's attached at the end of our submission, after page 10. It's called a Guide to Developing Inclusionary Housing Programs.

We've also developed case studies of inclusionary housing policies that are successfully used in hundreds of US cities.

One of the keys—and this addresses specifically the issue that the home builders raise—is that of course you don't want to have a mechanism that actually takes the profit out of home development, because then there won't be home development. What you do is develop a mechanism that ensures the developers make a profit—and the US ones do—and at the same time ensures a



healthy mix of housing. You do that through issues like density and other kinds of bonusing provisions, which at the moment, under the Planning Act, are all done sort of on an individual basis under section 37. The idea of inclusionary housing is that it takes away from individual negotiation and creates some certainty.

It's a process that I think home builders should in fact embrace, because it gives them certainty and takes away from the uncertainty of section 37 negotiations.

**Mr. Peter Kormos:** Thank you kindly, sir.

**The Vice-Chair (Mr. Reza Moridi):** Thank you. Now it's time for government members.

**Mrs. Donna H. Cansfield:** Thank you very much for your presentation. I'm looking forward to reading the entire brief.

I was surprised, however, when you spoke at the last in terms of your amendment around Ontario, that you didn't look to whether or not there should be a national strategy on housing for Canada. I don't know if it was omission, intent or you were just directing specifically to this particular bill.

**Mr. Michael Shapcott:** Not omission, Ms. Cansfield. If we thought this committee could actually achieve that goal, then we would do that.

Just yesterday, we met with the Ontario housing minister, and that was in fact the subject of much of our discussions. Yes, we urgently need a national plan. Yes, Ontario needs to have a plan that's coordinated with that.

But in the meantime, we've seen provinces like Alberta, which has actually developed plans, put in funding, despite the fact there is no national plan. They've achieved goals; they've funded thousands of new homes under their made-in-Alberta plan. So we're saying Ontario should do that.

I'm sorry if we left the impression that the federal government is not a player. It is absolutely a key player, and their absence from the table in recent years has been one of the key problems that we're all grappling with.

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, Ms. Elliott, please?

**Mrs. Christine Elliott:** Thank you very much for your presentation and also for the extensive brief, which I look forward to reading as well.

Certainly, there is a need for a long-term strategy in Ontario. The waiting lists are growing worse and worse. We heard from York region about the extensive wait-lists, and I know that from my own experience. I live in Durham region; we have wait-lists of seven to 10 years, in many cases, for affordable housing.

I think there is a lot of work that needs to be done, so I thank you very much for your thoughtful presentation, and I look forward to reading through and contemplating the contents. I can assure we'll take it under serious consideration.

**Mr. Michael Shapcott:** If I may just say in response, you and I have bumped into each other at various Anglican events in particular, and I know that we share a common interest in this issue.

We see faith communities are stepping up; we know that non-profit communities are stepping up; a large part of the private sector is stepping up. In September, the Canadian Chamber of Commerce passed a resolution calling for a national plan to end homelessness in 10 years. So we're seeing an extraordinary consensus emerging. We think that now the government should pick up on that and actually develop a real plan with real targets and timelines, and that's the thrust of our proposed amendment.

**Mrs. Christine Elliott:** Thank you.

**The Vice-Chair (Mr. Reza Moridi):** Thank you, gentlemen, for your presentation.

Ladies and gentlemen, at this point, the committee recesses. We'll come back to this room after routine proceedings at 2 p.m. this afternoon. Thank you very much.

*The committee recessed from 1010 to 1400.*

## ONTARIO MUNICIPAL SOCIAL SERVICES ASSOCIATION

**The Chair (Mr. Lorenzo Berardinetti):** I'd like to call this meeting back to order. This is a meeting of the Standing Committee on Justice Policy. We'll continue our deputations—

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Sorry, presentations. They're 15 minutes long.

Our first presentation this afternoon, for 2 o'clock, is the Ontario Municipal Social Services Association. Mr. Stephen Arbuckle, if you could please come forward and have a seat. Good afternoon and welcome. You have 15 minutes for your presentation. Any time that's not used, we'll use for questions from the committee members. Once again, welcome.

**Mr. Stephen Arbuckle:** Thank you for having us here today. We appreciate it.

We are pleased to be here this afternoon on behalf of the Ontario Municipal Social Services Association. Founded in 1950, OMSSA represents Ontario's 47 consolidated municipal service managers and district social service administration boards. CMSMs and DSSABs are the provincially designated service system managers and service providers for a range of housing and human services, including social housing, homelessness prevention, early learning and child care, and employment and income support services. Together, our programs and services help to make Ontario's communities physically, socially and economically healthy places to live, work and grow.

Bill 140 is the most significant change for housing and homelessness in Ontario since the province downloaded social housing responsibilities to service managers 10 years ago. The bill offers a high-level vision for housing and homelessness that emphasizes local flexibility and service system management. As service managers responsible for housing and homelessness, we appreciate the opportunities for community-based integrated plan-



ning and the new flexibility that program funding consolidation will bring.

Our praise of Bill 140 is tempered, however, with our concerns about what is not in the legislation. For all its policy benefits, Bill 140 lacks the essential ingredient for long-term success: the foundational investment required to sustain the housing sector. We acknowledge the current fiscal realities facing Ontario, but we also know that without additional and sustainable investment in the provision of housing, the bill will do little to directly help Ontarians who desperately need appropriate and affordable housing. Without the foundational resources for the housing and homelessness system, Bill 140 misses a real opportunity to make a difference for families, individuals, seniors and children in every community across the province.

As well, CMSMs and DSSABs, to maximize their effectiveness as service system managers, require appropriate resources to plan for and to administer their local housing and homelessness systems. In this regard, Bill 140 puts service managers in a challenging position. The bill assigns CMSMs and DSSABs a high degree of responsibility for success of local housing systems but provides no resources to them to help them achieve this success. Without provincial recognition of the inherent costs associated with good community planning, the quality and comprehensiveness of the plans across the province will be compromised. The absence of resources specifically allocated to planning will pose particular challenges to smaller CMSMs and DSSABs without dedicated planning staff.

We also note that DSSABs will be challenged further because their governance structure forces them to coordinate district-level plans with individual plans of local member municipalities. In some cases, this requires them to work with over 20 different organizations or municipalities. This planning coordination across the wide geographies of northern Ontario costs DSSABs money that they simply do not have.

In addition to the resourcing challenges, we note a number of other concerns about the bill. For example, the language on service level standards in section 42 must be framed exclusively in terms of the total number of rent-geared-to-income households to be served. The enforcement provisions in sections 84 to 100 should reflect a more balanced accountability relationship between the service managers and the housing provider.

We are concerned about the reviews of service manager decisions noted in section 157, and we continue to be concerned about the lack of tools to ensure sustainability of social housing assets, such as capital repair funding and financial tools for redevelopment.

We must also have the ability to preserve this public asset for the purpose that it was built for. As operating agreements come to an end and as mortgages are paid off, this needs to remain a public asset.

Our colleagues from the region of York and AMO have spoken about these in more detail, and we support their submissions.

As the professional association for housing and human service system managers, OMSSA has examined Bill 140 from the perspective of human services integration.

Taking a people-centred approach to service management and delivery means understanding that services must work together to benefit the whole person. After all, people do not live their lives in silos, and the services they receive should not be siloed either. This is true regardless of where in the province you live or your demographic background: child or senior, immigrant/newcomer, or long-time resident, single or married.

While the bill points to consolidated integrated planning for housing and homelessness at a local level, it lacks a parallel commitment by the provincial government to co-operate and be involved in housing and homelessness at all levels. For example, in part II, subsection 4(2), the bill notes that service managers are required to address the defined areas of provincial interest but does not articulate any corresponding provincial commitments required to support service managers. We therefore ask the committee to include language that commits the provincial government to its own inter-ministerial program consultation and coordination, thus providing a provincial parallel to local service integration.

We look for language that mandates the participation of local health integration networks in local plan consultations and processes. We look for a provincial commitment to work with the federal government to streamline related programs, such as the homelessness partnership initiative and the affordable housing program, to support local delivery. We look for language to ensure that requirements related to consolidated programs are established and communicated in a manner consistent with the timing and requirements of local plans.

OMSSA's human services integration approach also means making sure that all housing and homelessness policies and programs fit with people's other human service needs. From this perspective, we are concerned about the language regarding rent-geared-to-income assistance in part V. OMSSA fully agrees with the logic of developing an RGI process that is rooted in an income-tax-based calculation. We, however, note that the current RGI system has evolved over the past 40 years and is a complicated system that is integrated with many other systems. It's not a system that can be changed overnight, nor should be.

For service managers, there are extensive implementation and budget considerations for the delivery of the new system. But, more importantly, for tenants who benefit from the system, the transformation of an RGI system requires thoughtful policy consideration, attention and modelling to ensure that vulnerable people do not suffer from unintended consequences of well-intentioned but hastily developed policies.

Even problematic in Bill 140 is the absence of any discussion on the updating of related Ontario Works and Ontario disability support program rent scales and utility scales. Utility scales have not been updated for over a



decade and create a deep disadvantage to people who are trying to work their way out of poverty because these scales are so out of touch with the current cost of living. We have households in our communities that are paying more in utilities than they do in rent and have no money left over to buy groceries. Again, we recognize the fiscal realities facing the government, but there's a real human cost in not addressing these imbalances immediately.

**1410**

In conclusion, Bill 140 is a positive development in the transformation of Ontario's housing and homelessness system. It represents an ongoing commitment to the recommendations of provincial, municipal, fiscal and service delivery review.

We recognize that the implementation of the bill will be buffeted by obstacles, and the full consolidation and reconfiguration of local housing and homelessness systems will take many years to achieve.

Despite these challenges, OMSSA is excited about the opportunities that lie before us. A decade ago, CMSMs and DSSABs were entrusted with the responsibility of managing Ontario's housing and human services systems. We have done well. Their resounding success in meeting those responsibilities has led to a new challenge. We look forward to meeting this challenge and to continue to be the community stewards for housing, homelessness and human service systems in every community across Ontario.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Arbuckle.

We have three minutes left, and we'll get questions from the different parties. We'll start with the Progressive Conservative Party. Ms. Elliott will go first.

**Mrs. Christine Elliott:** Thank you very much, Mr. Arbuckle. I really appreciate your presentation.

A couple of comments and one question, first with respect to the need to integrate the human services with the housing services. It's something—I totally agree with you—that has been siloed, and it is something that needs to be integrated to match the needs of the people who are living in homes. It's something, certainly, that we tried to address with the Select Committee on Mental Health and Addictions: the issue of homelessness and the housing issues related to that.

I also appreciate the comments you're making with respect to the scale for rent-geared-to-income and people receiving ODSP and so on. I hope that's something that is going to be considered as part of the minister's review on social assistance as well. I think that's really important.

Just in terms of the overall bill itself—of course, I understand that you're in favour of it, but I'm getting the impression, not wanting to put words in your mouth, that it's good as far as it goes, but there's still another big leap that needs to be taken in terms of developing a more long-term housing and homelessness strategy. Is that fair to say?

**Mr. Stephen Arbuckle:** I would say that it's a very good overall policy document. As we said in our presen-

tation, there's nothing concrete about the long-term sustainable funding that's required to support that, which may come from different—

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. I have to stop you there, just to keep it fair to all parties.

Next, we have the NDP. Mr. Kormos.

**Mr. Peter Kormos:** No, thank you, Chair. Thank you very much, gentlemen.

**The Chair (Mr. Lorenzo Berardinetti):** The time will go to the Liberal Party. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thank you very much for the presentation today, and also for the great work that you do in providing this service at the local level.

I just have a question and, I guess, more or less a comment. You've made some recommendations as far as things that you might want to see addressed that are not addressed in the bill now. Do you have specific amendments that you'd like to see, or would you be able to—

**Mr. Stephen Arbuckle:** We will be submitting some suggestions.

**Mr. Lou Rinaldi:** Okay. That's great.

Secondly, although I heard that, in general, you're supportive of it—I guess, even if there were some amendments, and I'm just asking for your opinion, will this help you deliver the services that you do? One of the things I've heard—and I've attended a lot of the public consultations, both with the minister and on my own—and coming from a municipal background, I know what it was like when this stuff was downloaded; I was there. We have to make those decisions and help you to deliver them. Does this make it any easier?

**Mr. Stephen Arbuckle:** I think it creates a system where we're going to be looking at housing and homelessness together. Part of the bill also brings in five programs that are committed to consolidation. That's a parallel process, of course. But in terms of our planning as a municipality, we're able to look at the bigger picture with that. From that, we can make local decisions which will better serve our community.

**Mr. Lou Rinaldi:** That's what I heard, over and over.

**The Chair (Mr. Lou Rinaldi):** Thank you, Mr. Arbuckle, for your presentation.

## MARCH OF DIMES CANADA

**The Chair (Mr. Lorenzo Berardinetti):** We're going to move on to our next deputation. We have a tight schedule to stick to. Our 2:15 presentation—by the way, that clock is running fast. It is 2:15 right now, so I'm going to call upon the March of Dimes, Jerry Lucas and Steven Christianson. Good afternoon, and welcome.

**Mr. Jerry Lucas:** Mr. Chair, honourable members, thank you for the opportunity to present today. My name is Jerry Lucas, and I'm vice-president of programs for March of Dimes Canada. With me today is our manager of government relations, Steven Christianson.

I'll begin by introducing our organization and its work in affordable housing, and then more specifically com-



ment on Bill 140 within the context of Ontario's long-term affordable housing strategy.

March of Dimes was founded 60 years ago to fund research to eradicate the threat of polio in Canada. Once accomplished, we shifted our focus to first helping polio survivors overcome the impact of their disability and have since expanded our mandate to assisting all people with physical disabilities. March of Dimes has worked to identify, eliminate and prevent barriers to the full participation of Canadians with disabilities in all aspects of our society and economy.

Today, we're one of Canada's largest service providers to Canadians with disabilities, their families and caregivers, annually helping to improve the lives and livelihoods of over 50,000 consumers in Ontario and across Canada. We provide a wide range of services, all of which help consumers to live independently, including: housing, attendant care, employment supports, assistive devices funding, home and vehicle modifications, barrier-free design, and recreation.

In 1981, March of Dimes began developing and delivering attendant services, which assist people with physical disabilities to live in their own homes, in supportive housing and through outreach programs. Since that time, we have become one of the largest attendant-service providers in Ontario, assisting over 2,000 consumers annually through 12 local health integration networks, living in over 150 communities across the province.

In the 1980s, March of Dimes also began developing non-profit housing, and established a new charitable organization to develop and manage the facilities. The Ontario March of Dimes Non-Profit Housing Corp. owns and operates properties in Toronto, Hamilton, Oakville and Sarnia, and will soon open a new congregate care home in Sudbury. All of our facilities have tenants who require affordable and accessible housing as well as assistance with the activities of daily living. Our tenants represent a wide range of ages, disabilities and support care needs, including people with acquired brain injuries and young adults with multiple disabilities who are medically fragile.

What is unique to our type of affordable housing is the need for a coordinated solution that provides affordable and accessible housing with support services.

Bill 140 appears to represent an administrative step towards achieving simplification in the system, improved coordination and greater transparency in reporting of annual results. These goals can be positive. We feel improvement can be made with the greater clarity proposed in the technical recommendations made by the Ontario Non-Profit Housing Association, among others.

We are encouraged that the long-term affordable housing strategy acknowledges the complex and varied nature of affordable housing requirements and the challenges within the current system to coordinate the development of appropriate solutions. However, it is unclear how Bill 140 will address these complex needs and lead to the development of new housing stock accessible to our constituents.

There is a shortage of housing for the average family or individual requiring affordable housing. The people we serve have a much more difficult time finding an appropriate housing solution. They need a coordinated solution, as I said, that provides affordable and accessible housing with support services.

In the early 1990s, the Ontario government acknowledged the need to coordinate these elements to effectively plan and develop supportive housing, and developed an integrated housing and service development process. Unfortunately, this coordinated approach was abandoned, and our sector is faced with an impossible task of coordinating funding from a variety of federal and provincial sources for construction, guarantees from the local health integration networks for support service funding, and rent subsidies from the municipalities. Failure to secure approvals in one or more areas jeopardizes the viability of the project and its chances for success. I would add that it's not just approvals but it's the timing of approvals. You can't buy land and start construction and then hope, three years later, that the money is there for the services.

#### 1420

What further compounds the problem is that the population we serve is among the lowest of the income groups, many with annual family incomes of under \$10,000. The result is that people with disabilities are on housing and service wait-lists for a decade or more.

Affordability is the number one factor for 92% of our tenants. Nearly half of our residents state that their ability to pay rent is limited to the rent-geared-to-income subsidy. Another 25% of our tenants are limited to the shelter component of their income assistance cheques. Those who have not received RGI are frequent users of food banks and many experience significant financial hardship. Only 2% of our residents have no problem paying market rent.

Let me provide you with a couple of additional characteristics of our constituents: 85% of the residents identify accessibility as an essential component of finding appropriate housing, and three quarters of tenants require assistance with activities of daily living, ranging from four to eight, or even more, hours per day.

For most of our residents, remaining in the community is fundamental. More than two thirds of tenants state that they would not be willing to move outside their community. Being near family, remaining in the community and having amenities nearby in an affordable unit constitute the major priorities and concerns of March of Dimes Non-Profit Housing Corp. consumers.

Interestingly, the 2015 Pan Am/Parapan Am Games provide a prime example of the problem that our constituents face. The games have required all levels of government to work together and contribute to the development of new and upgraded facilities, including transit and housing. We're encouraged by the fact that the 2015 games will leave a legacy of affordable housing on the site of the athletes' village. Unlike the Vancouver Olympics, where the use of the land post-games was not part of the initial planning, the committee overseeing the



village construction has shown the foresight to plan for the needs of the community post-games and will shortly seek to qualify non-profit housing providers to take over 400 units of affordable housing, including 221 units which will be specially designed to house the disabled athletes of the Parapan games. Once the games conclude, affordability is being planned at an average of 80% of average market rents, ranging from an estimated \$600 for a bachelor unit to over \$1,000 for a three- or four-bedroom unit.

This is an historic addition to the accessible and affordable housing stock in Toronto. The intensity of the development will also make the delivery of support services relatively economical, as they can be provided using a single community hub model.

Yet, despite the \$1.4 billion dollars of investment in the games and the involvement on the village development committee of the Ministry of Municipal Affairs and Housing, Infrastructure Ontario, the Toronto Community Housing Corp., Waterfront Toronto and the city of Toronto, no one can provide assurances that there will be RGI and support services available to accommodate people with disabilities in the accessible units. In fact, I attended a workshop on December 14 by the committee, and non-profit housing providers asked the committee if, in their bids, they would provide an allowance for the successful bidders to remove the special accessibility features because no one believes that, without RGI or attendant care, these units will serve the people they're designed for.

We raise the example of the Pan Am Games affordable housing legacy because it epitomizes the coordination issue that is critical to supportive housing and our tenants. We ask the government to announce a guarantee of RGI and attendant care funding for 2015, to protect the legacy and to demonstrate its commitment to coordinated solutions. For us, a lens on Bill 140 and the long-term affordable housing strategy should be that the need for such a commitment would be unnecessary in the future, and ensuring that all future planning that seeks to provide housing solutions for people with physical disabilities is done with such a coordinated approach.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Lucas. We have about five minutes time, so about two per party. We'll start first with the NDP. Mr. Kormos?

**Mr. Peter Kormos:** No, thank you. Ms. Elliott can have my time if she wishes.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. We'll go around this way then. Two minutes for the Liberal Party. Mr. Rinaldi.

**Mr. Lou Rinaldi:** A very, very thoughtful presentation. You went beyond the scope of the actual issue today. I think that's good; that reminds us of all the good work that you do and the work you did with polio and being a member of a Rotary Club, that we took on the flag—other parts of the world to do that. I think you showed us the way, so thank you for that.

Just a quick comment on your presentation on Bill 140. You make some really good points. The folks are

out there, I guess, leading the way, and the good work that you're doing—all you're really looking for is for government to support you to do even more of that. We're here, really, today to listen to your recommendations and your thoughts. As we go through the process, in the next week or so, I can assure you that all the suggestions will be considered. We thank you for that very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the PC Party. Ms. Elliott?

**Mrs. Christine Elliott:** Thank you very much, Mr. Lucas, for your presentation and for the work that you continue to do in our communities every day. I think it's really important to highlight the needs of your clients. Specifically, I was really struck by the fact that you mentioned that 85% of your residents identify accessibility as a major problem. I'm assuming that's physical accessibility to premises.

**Mr. Jerry Lucas:** Physical, yes.

**Mrs. Christine Elliott:** So, obviously, we still have a lot of work to do in that respect.

I did have a question, if you don't mind. It's a little bit outside, but it's mentioned in your presentation. The new congregate care home that you're happening in Sudbury, is that a new model that you're operating on? Is that something that we can get some further information about?

**Mr. Jerry Lucas:** Sure. Of our five housing facilities, one is a 59-unit apartment building in Oakville, but we've moved more to the congregate care model. It's usually for people with more profound disabilities, such as people who are medically fragile. In this case, it's going to be for people with acquired brain injury.

It's really because it's almost impossible to develop a larger building for an organization like ours where putting together the funding is hard enough, but putting together all the pieces is so difficult. It's at a scalable level, which has made it possible for us to continue in non-profit housing. It's going to serve about 12 people, including some assessment units. It really is also going to be a different model than some of the others where—in other models, all the tenants are coming from the LHIN population. In this case, we're also going to be working with the private sector, with insurance companies.

**Mrs. Christine Elliott:** Can we get more information about it from your website?

**Mr. Jerry Lucas:** Sure. I'm sure we can—

**Mrs. Christine Elliott:** Could you send me and the members of the committee some information?

**Mr. Jerry Lucas:** We can also send you information.

**Mrs. Christine Elliott:** That would be terrific. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Elliott. Thank you, Mr. Lucas, for your presentation.

#### ASSOCIATION OF MUNICIPALITIES OF ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on now. The 2:30 presentation is from the Association of



Municipalities of Ontario, or AMO, and Mr. Peter Hume, president.

Welcome, and good afternoon.

**Mr. Peter Hume:** Pleasure to be here.

**The Chair (Mr. Lorenzo Berardinetti):** If you could just identify yourself for the record, and also the people who are with you.

**Mr. Peter Hume:** My name is Peter Hume. I'm the president of the Association of Municipalities of Ontario and a councillor in the city of Ottawa. I'm joined by Monika Turner, the director of policy, and Petra Wolfbeiss, who is our senior policy analyst on this file.

As you know, AMO represents almost all of Ontario's 444 municipal governments. I'm here today to speak about important considerations we believe will strengthen Bill 140. You will have heard from municipalities and other staff associations today. In general, we support their recommendations.

Bill 140 turns the page on an era of housing delivery that, in our opinion, just didn't make sense. This bill has the potential to deliver on much of what we asked for a decade ago—it seems longer than a decade, but a decade ago—save and except for the real issue of sustainable funding when funding and delivery of social services was downloaded to municipalities.

For AMO, the commitment that we achieved through the 2008 Provincial-Municipal Fiscal and Service Delivery Review agreement to upload social assistance was a significant achievement. While social housing costs did not make their way into the agreement, a new approach for the delivery of the system did. This was well received by municipalities as an opportunity to address local issues and needs and to potentially find efficiencies in the administration and delivery.

1430

As the new system evolves, we must acknowledge the fact that municipal governments and a planning system alone cannot respond to the profound need for new financial investments in the system. I don't need to tell you about the waiting lists across Ontario.

Our submission today focuses on five recommended amendments to Bill 140. I would be remiss, however, if I did not reiterate the fundamental issue that must be addressed to stabilize Ontario's failing housing system, or, restated, a housing system that delivers some significant benefits to Ontarians but still fails those in need of affordable housing.

Moving to a local planning system approach is certainly the right way to go. Rural, urban, northern and southern municipalities each have unique needs and capacities.

The current expectation is that all service managers will be ready to go January 1, 2012. We think the government should consider a phased approach. Some municipalities have the planning capacity that can get under way and meet the bill's timeline. Others will need to build or find capacity, which, of course, will take a bit of time.

Devolution occurred over a nine-month period; so too must this approach be afforded an appropriate time to

succeed. Therefore our first recommended revision is that, under regulations for section 6, it should be re-framed to state that the implementation on service planning should occur no later than January 1, 2013.

The consolidation of over 25 housing and homelessness programs is an underlying concern with the local planning approach. The government must understand that municipal councils cannot plan or budget in the absence of knowing what envelope they will have to spend from for these consolidated programs.

It's my understanding that the consolidation exercise is partially under way, but it's certainly far from being complete. However, local planning cannot be substantially completed, or maybe even started, until the consolidation exercise is complete and municipalities understand what funding will be available.

Municipalities want to get this right. We are accountable to our taxpayers and the residents of affordable housing in our communities. Appropriate time is needed to transition to this new way of doing business.

If we were to stop and ask ourselves where we want to be in 10 years on the housing file, the proposed way forward makes sense. It makes good sense. Articulating a service delivery and planning approach that embraces local flexibility and local responsiveness also makes sense. But here is the potential bump in the road: What's not easy to analyze or predict right now is the very real potential for an even greater future financial burden on and risk to municipalities.

We know that consolidating programs seems to make sense, but we also know that it could mean destabilizing a very important safety net for vulnerable Ontarians. For example, by capping emergency hostel funding or by reducing currently available funding in the system, the system inherently becomes destabilized. We understand that a policy change of this magnitude will require a period of time to find balance, a balance which requires ongoing financial support and commitment of the provincial and the federal government. Without this, the risk to property taxation and municipal budgets becomes greater.

One of the provincial interests stated in Bill 140 under section 4, and a shared interest of municipalities, is better coordination. This is our second recommended amendment.

To achieve this will require a significant commitment by the provincial government. Interministerial program coordination and consolidation should be mandated within the bill and/or the regulations. Further, the government must mandate the participation of the LHINS, the local health integration networks, and other relevant ministries in the local planning process.

In the absence of all key government players at the table, both provincially and in the local planning process, it's going to be difficult to get to this new system.

It's also important that the province works with the federal government to streamline the affordable housing program and the housing partnership initiative to support local delivery. We acknowledge these decisions are out



of the province's direct responsibility, but we support the minister's ongoing advocacy in this regard.

Municipalities have demonstrated that they can achieve a great deal at the local level when they have the authority and the tools. However, Ontario's housing system requires both federal and provincial investments. Local planning alone will not resolve the significant housing issues facing municipalities.

Just as an example, let's compare municipal expenditure growth in the area of housing between Ontario and the rest of Canada from 2000 to 2008, 2008 being the last year data was available. Over this five-year period, constant dollar spending per capita for housing in Ontario rose from \$98 to \$126, compared to just \$22 to \$41 for the rest of Canada. Why? Because social housing is a mandated municipal responsibility in Ontario, but not in the rest of Canada. This area of expenditure will continue to grow as stock ages and need increases. It means the property tax base will continue to have growing exposure.

Municipalities in Ontario have continued to be the heavy lifters in housing, but there are some very critical systemic sustainability issues on the horizon that will contribute further to this burden, issues that are not captured in Bill 140 but will undermine the entire housing system and leave municipalities and tenants exposed and at risk.

The decline in federal transfers of \$524 million annually has begun, and will move to zero over the next two decades. This means that municipalities will begin to see significant reductions in these subsidies. It's unclear how municipalities are expected to make up for this loss of funding which, for many municipalities, is in the tens of millions of dollars.

In addition, a number of other federal agreements are set to expire with no guarantee to be renewed. This means that some existing projects will no longer be viable and municipalities will still be required to maintain affordable housing units.

It's not clear to us what the province's plan is to address this imminent problem. What is clear is that the federal and provincial governments must fulfill their responsibility for maintaining Ontario's housing system. We are profoundly disappointed that the federal budget of two days ago did not mention housing at all.

Ontario taxpayers have invested billions of dollars in social housing; actually, it's around \$40 billion. Devolution saw the transfer of housing stock to municipalities in various states of repair. Today, capital repair reserves are depleted and municipalities lack the tools to address capital concerns. Capital funding is needed, but so too are financing tools to ensure that buildings are maintained in a good state of repair and contribute to the revitalization of these communities.

Municipalities have been asking for the ability to re-mortgage properties; however, the province has been reluctant to do so because of their increased liability under the social housing agreement between Canada and Ontario. We strongly urge the province to revisit this

proposal as well as explore others in an effort to find viable solutions to this pressing problem.

Once a housing provider's mortgage matures, they are no longer obligated to provide rent-geared-to-income units. The next two decades will see the majority of the non-profit housing providers' mortgages mature. If they choose not to continue, then we have a new problem: more need, and municipally, even more exposure.

Municipalities cannot be left holding the bag on how to meet rent-geared-to-income demands and obligations. Bill 140 lacks a strategy on this issue. New funding and an accountability framework must be established so that municipalities do not absorb this liability.

Bill 140 does a good job focusing on flexibility for local planning and delivery, but the success of these plans will lie in what discretion is provided to local councils in decision-making. Bill 140 is largely silent on this.

Municipal obligations for RGI service levels, contingent liability and subsidy should legally end when mortgages expire. Bill 140 should be amended to clarify this.

We believe that Bill 140 is a good first step, but it continues the risk that the original download delivered to us—that devolution would mean municipalities would be entirely responsible for creating and maintaining housing in Ontario.

Section 103 triggers this concern once more, and this is our third proposed amendment. In particular, section 103(d) identifies that any and all costs incurred by the province, identified under the federal social housing agreement, can now be charged to the service manager, and that is the municipalities.

We believe that this includes provincial contingent liability. While the province may have assumed perpetual liability under the social housing agreement, it is unreasonable to download this liability to municipalities. Once a housing provider is no longer obligated, municipalities should have no further obligations.

The amount of the provincial liability under the social housing agreement is unknown, which means that under section 103, municipalities are now being downloaded an unknown liability. This isn't acceptable and AMO strongly recommends the complete removal of section 103 from the bill.

#### 1440

Section 157 requires the establishment of local review bodies for the purposes of reviewing service manager decisions. Many decisions made by service managers that will be subject to the review are decisions made by council. It is unreasonable that an unelected local entity may be established to review decisions of an elected body.

Our fourth recommendation is that section 157 and all related references should be removed from the bill. There are other avenues to achieve the principle. We think that incorporating procedural fairness provisions in a more balanced accountability framework better meets the shared objective of well-informed decision-making.



Section 8 requires that local plans be reviewed by the minister prior to council approval. This doesn't really seem to make sense and in fact contradicts the principle of local autonomy and authority. Our final recommendation is to remove this requirement unless the government has an articulated and funded interest in these matters, which should be articulated in the bill.

We have further concerns of increased costs and liability to municipalities associated with new rent-geared-to-income calculation. While moving to a streamlined, income-based model makes sense, we urge the government to slow this process down and to carefully model this policy shift to prevent any significant cost impacts to municipalities and avoid hurting tenants.

In conclusion, we recognize and support the government in taking an important first step in reforming the social housing system through Bill 140. We encourage careful consideration of our proposed amendments to the bill, as without them, the municipal sector will be significantly impacted. We also strongly encourage the provincial government to work harder to provide the investments and commitments needed to effectively implement Ontario's long-term affordable housing strategy and strengthen the partnership with the federal and municipal governments to achieve better outcomes for families in housing need.

This bill is important to strengthening the foundations of affordable housing in Ontario.

Mr. Chairman, that is my submission.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much, Mr. Hume. There is a minute per party for questions, and I'm going to be very strict about this. We're starting with the Liberal Party first, then we'll go to the PCs and then NDP.

**Mr. Lou Rinaldi:** Thank you very much, Peter. Good to see you again.

**Mr. Peter Hume:** Nice to see you.

**Mr. Lou Rinaldi:** And thank you to you and AMO and your board—and I see some other folks are here amongst the crowd; you brought reinforcements today—

**Mr. Peter Hume:** I did.

**Mr. Lou Rinaldi:** —and for working with us to try to achieve this balance. You make some good suggestions.

I guess one of the things we probably have in common that you're looking for is some sort of sustainable commitment and funding on a plan. From a government standpoint, we couldn't agree with you more, and we just reassure you that Minister Bartolucci's predecessors have been working very hard with our federal counterparts. I just want to thank you for your support on that piece as well.

I will reassure you that somewhere down the road, as we maybe get closer to those commitments so that we don't do it in a piecemeal way, we might achieve the goal, but we truly understand your situation with not having that piece.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the PC Party. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you for your presentation, Mr. Hume. I just had a question with respect to delaying the implementation date and the concern that you've expressed about needing a bit more time to get things right. Is there a concern also with respect to any additional costs that might be aggregated by smaller municipalities in perhaps hiring planning consultants or whatever? Is there concern on the cost side of that as well as the time factor for just doing it right?

**Mr. Peter Hume:** We're always concerned about cost, especially in some of the municipalities that don't have capacity and will need to acquire or build that capacity. That is always a concern for us. Municipalities across Ontario are different, from northern to southern to eastern to western Ontario. As a result, we're recommending a phased approach to the implementation of this program, recognizing that some municipalities have capacity and some don't.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to Mr. Kormos.

**Mr. Peter Kormos:** Thank you, folks. I'm interested in your concerns about section 8. You say it offends the principle of municipal autonomy and authority. But, you see, everything in this bill is about giving authority by virtue of the provincial statute. A municipality as a service manager is only a service manager under the legislation by virtue of subsection 11(1).

So, why shouldn't—especially when you look at sections 5 and 6, which are guided by section 4, which are the principles that are to be the overriding principles. Why shouldn't a service manager—that's a creature of the provincial statute, not autonomous by any stretch of the imagination. Why shouldn't they have to submit their plans to the minister, for the mere purpose of disclosing them and receiving advice?

**Mr. Peter Hume:** It's my understanding that we're moving to a new way of doing things with more local responsibilities and flexibility. As a result, as an elected body, we believe we can be accountable for the decisions that we make under the proposed legislative framework.

**Mr. Peter Kormos:** I think you've got a case of Ford envy, but that requires a different statute.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Hume, for your presentation.

## HOUSING ACTION COALITION OF KINGSTON

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our next presenter, Housing Action Coalition of Kingston, Cindy Cameron. Good afternoon and welcome.

**Ms. Cindy Cameron:** Thank you. My name is Cindy Cameron. In my day job, I work at the Kingston Community Legal Clinic, but I'm here today on behalf of the Housing Action Coalition of Kingston, HACK, for short. I will concede, at the outset, that we are a bunch of hacks called HACK.

**Mr. Peter Kormos:** We're the bunch of hacks.



**Ms. Cindy Cameron:** I'm in good company.

We're here today to talk about tenant interests, even though some members of our group are landlords in social housing, and also—

*Interruption.*

**The Chair (Mr. Lorenzo Berardinetti):** I am going to ask if the people could please take their conversations outside. I'm having trouble hearing you. Let's just settle the room down a bit. Thank you.

Please continue.

**Mr. Cindy Cameron:** As I was saying, we're here to primarily point out some tenant interests in Bill 140, although some of our members are social housing landlords and social housing administrators.

I want to address today three aspects of Bill 140:

- an independent review process for decisions made by service managers and landlords;
- remedies available to address service manager non-compliance; and
- consultation on the new rent calculation method.

Affordable housing is an important issue in Kingston, where the vacancy rate for apartments is just 1%. That's the worst vacancy rate in all of Ontario, and we've consistently been almost the worst for many, many years. In fact, across Canada, only Winnipeg has a lower vacancy rate.

Rents in Kingston are increasing at a rate faster than the provincial average, and our growing student population is crowding low-income renters out of the rental market.

I had the opportunity to talk to a manager of one of our local homeless shelters recently, and she told me about a very disturbing trend. She said that more and more people are just walking away from their tenancies without even trying to sustain them, without waiting for the eviction process to follow through. She says they're doing this even though they're told they can get a free lawyer, such as myself, to help them fight the eviction, they can get free money from the rent bank, and there are all kinds of other service providers who can help them.

These people do not fit the profile of what we think of as a chronic shelter user, in that they're not struggling with addictions and they're not struggling with mental health. They're just regular poor people who are tired of struggling every month to try to pay the rent. I think that they have probably lost all hope of finding a sustainable home for themselves in Kingston.

We consider ourselves to be in an affordable housing crisis. We did hope that the long-term affordable housing strategy would provide money. So far, all we have is Bill 140, so it's really important to us that Bill 140 gets it right.

I'll talk first about the independent review process. Landlords and service managers are required every day to make a variety of decisions that affect tenants in subsidized housing and people who are applying to enter subsidized housing. A landlord might revoke a subsidy from one of its tenants, which would cause the rent to increase to market rent. In Kingston, for a single person

on Ontario Works, that rent could jump from \$100 to \$700 overnight, essentially.

The service manager also has the capacity to remove people from the wait-list who have been on for many years—six to eight years is common in Kingston—for reasons like not responding to a letter. Those are decisions that have a significant impact.

**1450**

The Social Housing Reform Act contains an inadequate dispute resolution mechanism. It allows people to seek internal review of the decision that is disputed. That review is conducted by staff in the same office so it is not independent. In Kingston, our internal reviews are conducted on paper only; there are no oral hearings.

Bill 140 improves on the dispute resolution mechanism set out in the SHRA, but it does not go far enough. It requires service managers to create a system for dealing with reviews, including appointment of a review body. However, Bill 140 is silent on the composition of the review body and on the review process. At a minimum, we believe that an effective dispute resolution mechanism must have independent decision-makers and the right to an oral hearing.

The lack of an adequate dispute resolution mechanism creates injustice, and one of the things we struggle with most frequently in Kingston are allegations about former tenant arrears. Any landlord in the province can effectively blacklist a person and block their re-entry into subsidized housing by alleging that a debt is owed. Because there's no dispute resolution mechanism that works, some landlords are able to take advantage. When I say "some," it's important to stress that, because there are many, many good landlords out there.

To give you some examples, one tenant in Kingston was charged for the cost of carpet cleaning even though her rental unit is 100% linoleum; there was no carpet there. Another tenant was making regular payments on a debt for about a year and a half when I discovered that her debt was increasing. I thought that was just a mistake, but when I inquired, I was told that the account was subject to interest at a rate of 24%. Her monthly payments, which were about \$20 a month, but still were a great burden on her family, were not even covering the hidden interest charges. I know that those interest charges were hidden because I negotiated the payment plan myself and I was never told.

To give you an idea of who that affects, the woman I just spoke about with the interest charges isn't even trying to get into subsidized housing right now. She's paying this debt back because she thinks it's the right thing to do. She probably has a learning disability. She certainly has very limited abilities. The last time I saw her, she told me that she thought her mind was going a little bit because she's getting older. I had to do a referral to adult protective services because I wasn't sure that she could care for herself and her family anymore without some supports.

Those are the people who potentially are being taken advantage of and who suffer because there's not an



adequate dispute resolution mechanism. It's not enough for Bill 140 to require service managers to craft a system. You must ensure that the system is fair. At a minimum, that means ensuring the review body is independent and impartial, and that hearings are conducted in person.

We're asking for an amendment—which you can see in your materials at page 2, at the bottom—to section 155(3), to say that the system must include provision for an independent, three-member review panel to hear oral appeals and so on. I think that's probably the same recommendation you're going to hear from ACTO next week.

I'll move on now to remedies for service manager non-compliance. Bill 140 is designed to give greater flexibility to municipalities through the use of community-based planning. We think that's great. We like the idea of local flexibility, but we are concerned about continuing oversight and accountability. It's important to note that when you're giving more flexibility, you're also giving more power.

Our service manager has failed, at times, to provide the minimum number of subsidies required by law. In 2009, for instance, the city had a shortfall of 135 subsidies. When questioned by the local newspaper, a staff person at the city stated that the province allows municipalities to be under target by 10%. Now, I don't know if that's the province's policy or not. If it is, it's troubling. Our service manager is required under the SHRA to provide 2,003 subsidies, so a shortfall of 10% is 200 subsidies—200 households that are languishing on the wait-list for six to eight years when they don't need to be. And I don't think that's a problem that's unique to Kingston; I think that's happening elsewhere.

Tenants certainly are not allowed to discount their rent by 10% every month—and I know that because I am at the landlord and tenant board hearings every week in Kingston—so why is it acceptable for municipalities to do so? And why is the provincial government, if they are condoning it, condoning this type of non-compliance?

The recommendation we're asking for, again, is on page 3 of the materials at midway to bottom. We're asking for an amendment to section 23 of the bill to ensure that the province takes action on service manager non-compliance: If there is non-compliance, the minister "shall" exercise one of the following remedies—and we haven't changed the remedies that you have proposed. Obviously, which remedy gets chosen is up to the discretion of the government, but we do want it to be mandatory to take some action. It's important to note too that this only happens after a warning has been given.

Finally, I'll talk about transparency regarding the new rent calculation model. We commend the government for its commitment to simplifying the calculation of rents in subsidized housing. This is a measure that will provide important benefits to both landlords and tenants. However, we are concerned that the simplification may lead to inequity for some tenants. Trying to solve poverty using a one-size-fits-all model is often problematic.

The new rent calculation model and the specifics of how the rent will be calculated aren't in Bill 140, and we

understand why. I mean, we understand why it should be in the regulations as opposed to the act. However, it is vital that the public have a chance to consider the implications of the new rent calculation model. A rent increase of just \$50 can be catastrophic for someone living in a low-income household. For that reason, we're asking you to undertake broad public consultation on the new rent calculation model prior to its implementation in the regulations.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation, Ms. Cameron. We have about a minute per party. In rotation, we'll start first with the PCs. Ms. Elliott?

**Mrs. Christine Elliott:** I don't have any questions, but I'd like to thank you very much for a very clear, concise presentation, Ms. Cameron. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** Thank you, Ms. Cameron. Your proposal of a review of a dispute resolution process for people who have a disagreement with the housing provider, with the service manager, is an interesting one, because the Co-operative Housing Federation of Canada made a similar proposal this morning. What are you thinking of? You're not thinking of an arbitration process where parties pay their share of the cost of the arbitration, are you?

**Ms. Cindy Cameron:** No.

**Mr. Peter Kormos:** Because that would be an onerous responsibility on a tenant. Are you talking about an ombudsman?

**Ms. Cindy Cameron:** Ottawa has been using a model already.

**Mr. Peter Kormos:** Tell us about that.

**Ms. Cindy Cameron:** It was sort of a pilot project. I'm no expert in it; I'll defer to my colleagues at ACTO when they present next week. They know more.

**Mr. Peter Kormos:** The folks from AMO could have told us. He's a councillor from Ottawa.

**Ms. Cindy Cameron:** That's right.

My understanding is it's a three-member panel. I think that it's similar to maybe an EI panel, in that one person represents tenant interests, one person comes from a landlord-type background, and then there's someone who is neutral in some form or another. The three-member panel hears the appeals. Again, I don't know the details about how they run it, but my understanding is it is run like a hearing, although—

**Mr. Peter Kormos:** But informal.

**Ms. Cindy Cameron:** Yes, and no cost. It's a system that's set up by the municipality somehow.

**Mr. Peter Kormos:** I think that's a very important proposition.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the Liberal Party. Mr. Rinaldi?

**Mr. Lou Rinaldi:** Thanks very much. Your proposal obviously is from the tenants' perspective, from the ground up, who you dedicate your time to, and thank you for that.



I just have a sort of general question. All the suggestions you make are valid, I just want to reassure you of that, but just a general question: In your opinion, will the changes that are proposed to the rent-gear-to-income that are part of this piece of legislation make a difference to the tenants?

**Ms. Cindy Cameron:** Absolutely. I think that landlords spend an inordinate amount of time calculating rent, and I think that landlord resources can be better spent on other things. Even apart from the obvious convenience to tenants of not having to bring in cheque stubs every month and employment stubs every month and, frankly, never knowing until the very last minute how much that rent is going to be for that month—those are obvious benefits. But again, we think that it will trickle down because landlords and service managers will have to spend less time on this, too, and they can spend their time fixing up units and dealing with tenant concerns.

1500

**Mr. Lou Rinaldi:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you again, Ms. Cameron, for your presentation.

For the information of all members of committee, there was no one to fill the 3 o'clock presentation slot. The 3:15 presentation from the Federation of Metro Tenants' Associations—the presenters there are ill, and they've been rescheduled for next week.

**Mr. Peter Kormos:** But your 3:30 presentation is probably ready to go.

**The Chair (Mr. Lorenzo Berardinetti):** You took the words right out of my mouth.

MR. BRIAN BURCH

**The Chair (Mr. Lorenzo Berardinetti):** The 3:30 presentation is here, and they're ready to go. Mr. Brian Burch, good afternoon, and welcome. I think you know the rules: You have 15 minutes to speak, and any time not used will be used by the parties.

**Mr. Brian Burch:** First of all, I'd like to thank the members of this committee for the opportunity to share a few of my own thoughts on Bill 140. I'm speaking as an individual who has lived in a housing co-operative since 1984, and I have devoted decades of my life to the co-operative and non-profit housing sectors.

In the few moments that I have, I'm aware that I can't talk about everything, and I certainly don't have the expertise to talk in detail about specific amendments to each clause. I trust that the Co-operative Housing Federation of Canada, Ontario region, 118-page document and the ONPHA documents will provide some guidance on that. There are five little areas of concern that I personally wanted to sort of strengthen in the few minutes that I have.

The first one is the real need to have an independent arbitrator system to deal with disputes between housing providers and local service managers. There was a previous arbitration clause in the old agreements between non-profits and co-ops in the province. During the 18

years of those provincial programs, I don't think that arbitration clause was ever called upon, but it was there. It was an alternative to expensive litigation if there was a dispute between parties. Certainly if people on this committee remember the problems between the Thornhill Green housing co-operative and York region, many of those things could have been dealt with much more simply, more easily, less expensively and less divisively if there had been an independent arbitration system built into the legislative framework at that time.

Continuing from that and again echoing concerns expressed by ONPHA and CHFC Ontario, there needs to be a strong legislative framework to protect the existing housing stock. While attention seems to be paid in the media today to fears about the future of the Toronto Community Housing Corp.'s portfolio, I am also concerned that there are individual housing co-operatives and co-operative members who would like to sell their co-operatives at the end of their operating agreements either to themselves at below-market rates or on the open market with any surplus going to the members when the corporation is wound down. The existing affordable housing communities need to continue to be a resource for future generations, who will then benefit from the existence of such housing portfolios, and strong legislation needs to be in place to preserve the permanent non-profit housing stock. Without it, the risk of losing affordable housing stock is all too real.

I was very pleased to have seen in the draft legislation a requirement for a very good planning process to look at actually solving the problems of the lack of affordable housing and the problems of homelessness—indeed the lack of decent affordable housing for all in Ontario. This is a major step forward. I like it; it's a visionary process. But funding needs to be in place to meet the costs of participating in such a discussion process, a visioning process. Then ultimately, once people look at ways of solving the problems of housing and homelessness, the money has to be there to implement the local strategies to address multifaceted housing problems. Stakeholders need the resources to properly participate in any discussions, and the results of such planning need to have the resources to be brought to life.

Without the necessary finances being in place for meaningful participation in the planning process and for the recommendations to be implemented, one of the few truly visionary legislative initiatives I have seen in my 60 years of life on this planet will not succeed, and I don't want that to happen.

I was very pleased to note in the proposed legislation the recognition that community-based housing, both non-profits and housing co-operatives, is acknowledged as being part of the solution to housing and homelessness in Ontario. Too often the role of individuals and small community groups coming together to share their resources and visions to address social concerns is overlooked.

We need to get involved and encourage involvement in local initiatives to address the needs that we see in our own neighbourhoods. Having our own roles acknow-



ledged in legislation is very important, but in the long term, resources have to be available—it ultimately comes down to money—and it really needs to have effective financial partnerships between these grassroots initiatives and the province and other funding bodies for this recognition to be real.

My second-last comment comes about from my personal experience living in a federally funded co-op and co-ordinating a housing co-operative funded under Jobs Ontario, now an SHRA co-op. There needs to be recognition in place that acknowledges the difference of co-operatives from all other forms of affordable housing.

Federal housing co-ops have more autonomy in terms of member selection, electing their boards, setting their budget and in their own long-term financial planning than those governed by provincial legislation and agreements. Initiatives that are not a significant issue for non-profit providers, such as centralized waiting lists or maximum rents/housing charges, are issues for many co-operative members.

If non-profit housing co-operatives can't easily fit into the self-defined role within provincial frameworks, perhaps Ontario can do what the federal government did with federally funded co-ops in Ontario and transfer responsibilities for them to the agency for co-operative management, which administers federally funded co-ops in Ontario.

My final comment is more of a personal plea. For those who are homeless or marginally housed, who depend upon food banks, who are on Ontario Works and would truly benefit from that extra \$100-a-month food allowance, who are here in Ontario and can't find a permanent job with decent benefits, who are in physical danger in their own homes, who are both visible and invisible in their needs, however this discussion on the way social housing is being administered in Ontario is resolved, the reality is that for too many people there is no place that they can call home.

We all need to remember this reality in our own policy discussions and our recommendations, and we need to address this reality. It's a reality that could all too easily become our own personal reality. Meeting those human needs has to be the guiding purpose in all the work that we share in today.

When I first moved to Toronto, I had to live at Seaton House, which was not an experience I would ever recommend to anybody. Fortunately, I found a home in housing co-operatives and found a niche working in co-ops and volunteering in non-profits.

That experience makes me feel that, whatever we do with this framework, we can't forget the fact that any one of us can become vulnerable, any one of us can become homeless. We need to have the solutions in place, both for those who are currently at risk and for any of us around the table who might, tomorrow, be at risk.

Those are my comments on some of the issues of the day.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Burch. We have about nine minutes, three per party. We'll start first with the NDP. Mr. Kormos?

**Mr. Peter Kormos:** Thank you very much, Mr. Burch. You're right. This morning the ONPHA addressed the concern about the prospect of privatizing existing stock.

I asked them to paint a scenario, paint a picture. You've done that a little bit here. Can you give us a "for example"? Tell us what might conceivably happen. Expand on what you've written here in your—

**Mr. Brian Burch:** Okay. There's sort of two different things. One is the selling of existing housing stock with the idea that any revenue that's there can be put aside and at some point down the road used to provide rent vouchers or something like that in an already tight rental market. You take out of existence a substantial portion of existing affordable housing stock and force the people then to become competitive for the existing housing stock that's out there.

1510

More specifically around co-operatives, and this is specifically dealing with the Matthew Co-op, members of opposing co-ops have tried in the past to extract equity from it and turn it from affordable housing to luxury housing.

There's a long-term history. In the 1930s in New York City, unions and churches and community groups put money into co-operatives to provide affordable housing—

**Mr. Peter Kormos:** The ladies' garment workers, among them, right?

**Mr. Brian Burch:** Yes. They are now \$1-million, \$2-million, \$3-million units. Many of them were started as affordable housing, but because the legislation was not in place to ensure that in the future those would be permanent housing, they're now luxury housing. They could have continued to be affordable housing if the legislation was in place that insisted upon it.

**Mr. Peter Kormos:** Do you have any idea of what the legislation would look like and what it would say? Would it be an absolute bar, or would there be some discretion in some body, for instance?

**Mr. Brian Burch:** As long as there's an effective alternative mechanism to look at these disputes as they come in, an absolute bar isn't necessary, but I would certainly like to see it.

**Mr. Peter Kormos:** That's the best-case scenario.

**Mr. Brian Burch:** Yes, both for housing co-operatives and for municipal non-profits.

**Mr. Peter Kormos:** Is there a parallel in the non-profit world with non-profit corporations about what their members can do with the assets of the—

**Mr. Brian Burch:** I believe they can't do that under their own incorporations, under various other legislation, but I do know that over the years, some former non-profit buildings are no longer non-profits. That's in Toronto, and I assume it's elsewhere as well.

**Mr. Peter Kormos:** I appreciate your comments very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party. Mr. Rinaldi.



**Mr. Lou Rinaldi:** Thank you very much, Mr. Burch, for your very thoughtful presentation. I think it's because you're living what you've written down; you've got that experience. I very much appreciate it. I don't really have any questions. It's an awful lot—what you're trying to achieve. Thank you very much.

**Mr. Brian Burch:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** We'll go on to the PC Party. Ms. Elliott?

**Mrs. Christine Elliott:** I would also like to thank you very much, Mr. Burch. I really think your perspective is very valuable, and I did appreciate your comment that you never know when you could be in the same position yourself. I certainly have, unfortunately, people known to me in my own community who were recently placed in that situation. No one would ever have anticipated that, even two years ago. So you're quite right, and I think it's something we all need to keep in mind.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much again.

I'm just going to ask if there's anyone here from the Registered Nurses' Association of Ontario. No?

#### DISTRICT OF THUNDER BAY SOCIAL SERVICES ADMINISTRATION BOARD

**The Chair (Mr. Lorenzo Berardinetti):** There is another presenter who's here today, and that's Mr. Iain Angus—he's our 5:15 presentation, but we can hear from him now—from the District of Thunder Bay Social Services Administration Board. Good afternoon and welcome to our committee.

**Mr. Iain Angus:** Thank you, Mr. Chairman and members of committee. I'm pleased to be here today. My name is Iain Angus and I'm the chair of the District of Thunder Bay Social Services Administration Board. I was to be joined by Toni Farley, a consultant, but she was planning on being here for 5 o'clock. I'm trying to reach her to say, "Don't leave home. I'll do the work without you."

Mr. Chairman, if I could ask you to give me a head's-up at nine minutes, because I would like to make sure I leave time for questions.

We want to express our sincere appreciation for this opportunity and commend this government on its leadership in responding to the complex and changing housing needs of Ontario's most vulnerable citizens.

My goal today is twofold: to present to this committee a clear representation of what makes life in northwestern Ontario so different from other regions in the province, and how the promise of Bill 140 can be more fully realized by including specific amendments to account for these differences and the unique challenges faced by DSSAB service managers.

While part of the north, the region of northwestern Ontario is distinct from our neighbours in the northeast and differs significantly from other parts of the province. The northwest contains almost half of Ontario's landmass

yet has less than 2% of the population. The sheer breadth of our region poses significant challenges to the economic, health, and social development of our communities.

Our economy is different than the rest of the province and remains heavily dependent on natural resources. The cyclical nature of this market and the ongoing decline in the forestry sector, in particular, has created enduring instability and resulted in total economic collapse for many single-industry towns.

As the economic and service hub of the northwest, the city of Thunder Bay has a more diversified economy, yet is directly affected by the economic decline of smaller communities in our region. Families leaving single-industry towns are coming to Thunder Bay in increasing numbers, looking for employment, health and social services, and housing.

The northwest has a significantly higher proportion of aboriginal peoples than the rest of the province, and this segment of the population is younger and growing faster than any other demographic. Individuals and families are leaving northern reserves and coming into Thunder Bay seeking employment, education and health services not available in their home communities. Many are struggling in this transition, and service delivery agents are working to figure out how to best meet the increasingly complex needs.

Our differences with the rest of the province do not stop there. Northwestern Ontario has a higher rate of unemployment; a higher proportion of those aged 65 or over, and growing; a number of our seniors' units in the district have chronic vacancies, yet 15% of our waiting list in the city is comprised of seniors. Seniors represented 39% of applicants housed from our wait-list of 1,226 in 2010. Our housing portfolio consists of 3,752 units, comprised of 1,848 seniors' units and 1,904 family units, with 199 of the seniors' units located in the districts. Of the total, there are 3,382 non-profit units in the city, including 278 native units, and 370 units in the district. In addition, we have 565 units under rent supplement agreements with private landlords. Overall, we have a lower rate of population growth, with many of our smaller communities actually shrinking, along with their assessment base. The income of renters in Thunder Bay has not kept pace with the increase in rents, so that on average, renters have to spend more than 30% of their income on rent alone.

Together, all of these factors have a direct impact on the housing market and the delivery of social and affordable housing by service managers like the Thunder Bay DSSAB.

Recognizing the need to plan for housing in the face of these challenges, our board made the decision three years ago to establish a comprehensive housing strategy. A study of this nature had never been undertaken in the life of the DSSAB and extended beyond our legislated mandate, coming at a cost to date of approximately \$150,000. Our board believed that we needed to thoroughly examine the full housing continuum, including market



housing, homelessness and supportive housing, to determine how best to support the housing needs of all residents in the district of Thunder Bay.

With oversight by a joint board and a stakeholder steering committee, our consultant is completing an extensive process that includes a thorough quantitative and qualitative review of housing trends; broad stakeholder and public consultations, including hundreds of participants in 15 municipalities and the unorganized territory across an area of 103,000 square kilometres; and a detailed implementation plan with specific time frames and costs. This report is not going to sit on the shelf.

Having begun this process three years ago, I am pleased to be before you today stating that the Thunder Bay DSSAB is ready to hit the ground running once Bill 140 becomes law. However, on behalf of my board of directors, I would like to offer the committee some specific recommendations and amendments to Bill 140 that will enable our DSSAB to fully realize the intent of our housing strategy and of this legislation. Attached to this presentation is a more comprehensive document, including specific amendments, that outlines a number of issues and offers specific amendments and solutions to challenges that we will face under Bill 140.

I want to talk about three areas: the need to secure interministerial and interjurisdictional endorsement of service manager housing and homelessness plans, the increased liability transferred to service managers under the act, and the make-up of the board of the housing services corporation.

As the administrators of Ontario Works, social housing and the affordable housing program, service managers are the logical choice to be the official lead for homelessness. It is only implied in Bill 140 that service managers are the lead for homelessness, however. To avoid confusion, the act needs to be changed to make it absolutely clear that we are the lead.

To achieve this, there will be a need for the Ministry of Municipal Affairs and Housing, as the key point of contact with service managers for housing issues, to ensure that service manager housing and homelessness plans are not only reviewed but approved by the minister, all relevant ministries and their agencies, including the Ministry of Community and Social Services, Ministry of Health and Long-Term Care and the local health integration networks, just to name a few. As well, agencies funded by those ministries, such as the LHINs, should be obligated to jointly plan the extension of housing and support services in concert with service manager-approved plans. In this way we will be able to work effectively with all stakeholders in ensuring that the expectations related to the homelessness component of the housing and homelessness plan can be met.

Our second area of focus relates to the increased liability that service managers are assuming under this act. Unlike the Social Housing Reform Act, Bill 140 makes no mention of environmental liability created by the federal or provincial governments or their agencies. This means that the service manager is now liable for all

environmental costs that were previously the responsibility of the province under SHRA and the federal government under the social housing agreement. If this is not a simple oversight in the draft legislation, it is grossly unfair that these liabilities have passed on to the service managers, and, through them, to the municipalities and the property taxpayer. Section 34(2) of the Social Housing Reform Act should remain in the new act.

**1520**

We are also very concerned about the liability transfer to service managers of costs incurred by the province in the event of a mortgage default. In most markets in Ontario, real estate values have risen significantly so that there is only a very slim chance of a mortgage default not being covered by the value of the property. However, this is not the case in the northwest. In most communities, economic decline has resulted in real estate values falling significantly. In one such community, the outstanding mortgage on one of our projects is over \$700,000, while the current market value of that project has been pegged at \$200,000—a \$500,000 spread. And that assumes that a buyer can be found in an economically depressed community where there are significant vacancies in both the private sector and non-profit rental markets.

DSSABs do not have the financial capacity to absorb these costs and should not be held liable when we have been prudent and fiscally responsible, despite circumstances beyond our control.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Angus, you wanted to know when the—

**Mr. Iain Angus:** Nine minutes?

**The Chair (Mr. Lorenzo Berardinetti):** Yes, that's it.

**Mr. Iain Angus:** Mr. Chairman and members of the committee, in the text there are some comments about the process for selecting and the need for northwestern Ontario to have its own rep on the board. I'll leave that to you to read.

I'll just conclude by saying that while the Thunder Bay DSSAB welcomes many of the proposed changes in Bill 140, implementing them will come with a significant financial impact, especially for DSSAB service managers with a small and shrinking resource base. As such, we recommend that the province establish an ongoing housing support fund for service managers and for DSSAB service managers in particular, and that criteria for the use of the funds be developed in consultation with service managers and with DSSAB service managers in particular.

In conclusion, our board has been proactive in planning for the housing needs of our region in response to the unique circumstances we face. We trust that this committee will give due consideration to the amendments we have proposed and are confident these changes will ensure that Bill 140 achieves positive outcomes for individuals and families throughout northwestern Ontario and across the province.

Thank you for your time and interest. We look forward to any questions you may have.



**The Chair (Mr. Lorenzo Berardinetti):** Thank you. I have roughly three minutes per party. We'll start the rotation this time with the Liberal Party. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thank you very much for being here today, Mr. Angus. I'm not sure if you're related to an Ian Angus in Port Hope—

**The Chair (Mr. Lorenzo Berardinetti):** Sorry, I can't hear you, Mr. Rinaldi. Can you please—I'm having trouble hearing you.

**Mr. Lou Rinaldi:** All right. We're back here. Okay, now we're on.

Thanks very much for being here and accommodating our time slot to fill in.

Obviously, you indicated some challenges you're having in the north, and this is not the only challenge. In my time, being here for seven and a half years, we as a government certainly recognize some of those challenges in the last few years, and the considerations that you put forward are well respected; they're thoughtful.

Can you give some sense of—I know you've got the recommendations here but, in a minute or so, can you highlight some of those a little bit more specifically?

**Mr. Iain Angus:** Thank you, Mr. Rinaldi. Mr. Chairman, through you, and members of the committee, I think the key thing for us—first of all, we like the flexibility that the bill provides for us, because too often in the past it has been one size fits all from Queen's Park that doesn't always work for us. This gives us a real good opportunity to develop plans that make sense for our needs and our people and our infrastructure.

I guess the key message for me today is the whole liability issue. We're very pleased with the uploading that this government has undertaken. We wish it was faster, but we recognize that we can't always have the speed that we would want. But we see in this bill that there's some reversing of that—by sticking us with the environmental liabilities and by the example I used in terms of the mortgage situation, where we have buildings that are worth much less than the mortgages we have for them. But that's a real concern to not only DSSAB but our member municipalities that will have to pick up the tab, because it's not like the DSSAB has its own money; it's property taxpayers' dollars that we have to get from each municipality. So that, I would say, is our biggest concern going forward.

**Mr. Lou Rinaldi:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** We'll go to the PC Party. Ms. Elliott?

**Mrs. Christine Elliott:** Thank you very much, Mr. Angus. It's really interesting to see the specific considerations that DSSAB has to deal with, and also the fact that you've been so proactive in dealing with your housing strategy. Because you're so far along in the process, we will be giving very serious consideration to the recommendations that you're making.

I did just have one question, though. If I could just refer you to page 2 of your presentation, when you were talking about the number of your seniors' units having chronic vacancies. About 15% of your wait-list was

comprised of seniors, and I was just wondering what was the reason for that.

**Mr. Iain Angus:** The areas where we have vacancies are in the district communities, so Manitouwadge, Marathon, Terrace Bay, Schreiber, Nipigon, Longlac and Geraldton. A lot of those units are half-empty, and it's usually the upper floor, because all of our buildings do not have elevators; they were built at a time when that was not a requirement.

The irony is—and this comes back to some of the comments from some of the other presenters today—we have an urgent demand for supportive housing. We've got vacant units that we could fill tomorrow, if the supports were available in those communities. Part of our argument is that need to break down those silos to make sure that our housing plans are in effect endorsed by the other ministries: long-term care and health; the LHINs, who we have to get the supportive dollars from in order to make this work—and by the way, that will help our hospital in terms of its gridlock at the same time.

**Mrs. Christine Elliott:** It points to the need for full integration so that all the needs are being met, not just housing.

**Mr. Iain Angus:** Very much so.

**Mrs. Christine Elliott:** Great. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to Mr. Kormos.

**Mr. Peter Kormos:** Thank you, Mr. Angus. You're of course intimately familiar with the legislative process.

**Mr. Iain Angus:** Well, it's been a while since I've been here.

**Mr. Peter Kormos:** But it has changed. It has really, really changed, and not necessarily for the better.

You make reference to the need for the ministry to not only review but approve housing and homelessness plans. You're obviously referring to section 8 of the bill, which requires only a review and not an approval. I wanted to make sure I understood you.

**Mr. Iain Angus:** We're very clear on that. We believe that when a ministry approves a document, they share ownership in that document and they share a responsibility for ensuring that that plan is not only followed through, but that the funding becomes available to make sure it happens.

We can see some pushback from the ministry, saying, "No, we're not going to go down that road," and that's fair; that's the government's right. But that gives us an opportunity to have a dialogue and say, "But hang on. If you do this, you're going to save a whole bunch of money over here," because we're taking people out of hospital beds, alternate-level-of-care beds, and putting them in the community, where it's a lot less expensive to provide quality service for them in a home condition.

**Mr. Peter Kormos:** Of course, AMO, the Association of Municipalities of Ontario, just a few minutes ago said that section 8 should be deleted because it contradicts the principle of municipal autonomy and authority. What do you say to that?

**Mr. Iain Angus:** Well, I respect Peter and AMO, but I look at this from the perspective of boots on the ground



in terms of what makes sense for my district, for my DSSAB, and the difficulty that we always have had as a region of getting the attention of government—it doesn't matter which party—to get the things that we need that are different than what southern Ontario, eastern Ontario or even northeastern Ontario need. We want that buy-in from the province.

**The Chair (Mr. Lorenzo Berardinetti):** You have about a minute. Are you okay?

**Mr. Peter Kormos:** No, I can use a minute easily. So can Mr. Angus.

**The Chair (Mr. Lorenzo Berardinetti):** Go ahead.

**Mr. Peter Kormos:** Again, in terms of the minister signing off, you suggest that that indicates buy-in by the ministry. Suppose the corollary of that is that if the minister doesn't sign off, that means that the service manager has got to see where they're not going to get support down the road from the ministry, so it's valuable both in terms of the signing off and not signing off as well.

**Mr. Iain Angus:** That's right, because if we already know that the Ministry of Municipal Affairs and Housing, for example, or the Ministry of Health and Long-Term Care is not going to support that at the ministerial level, then we have the option of ramping it up or ratcheting it up in terms of making it a political case. We go through NSBA, we go through AMO, we go through our MPPs, we go through the Legislature to put pressure on the government of the day to move in a particular direction.

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**Mr. Peter Kormos:** Because, of course, governments change from day to day.

**Mr. Iain Angus:** They do. Even an existing government changes from day to day.

**Mr. Peter Kormos:** Thank you, Mr. Angus.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Angus, for coming here today.

**Mr. Iain Angus:** Thank you, Mr. Chairman and members of the committee. We appreciate the opportunity, and we look forward to seeing what you do to reshape this bill during your deliberations.

#### REGISTERED NURSES' ASSOCIATION OF ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** I just want to advise members of the committee that our 3:45 presentation is here, the Registered Nurses' Association of Ontario. It's Wendy Fucile. We'll move you up to 3:30. I want to welcome you to committee.

**Ms. Wendy Fucile:** Good afternoon. My name is Wendy Fucile and I am the immediate past president of the Registered Nurses' Association of Ontario.

The Registered Nurses' Association of Ontario, or RNAO, is the professional association for registered nurses who practise in all roles and in all sectors across this province. We work to improve health and to strengthen our health care system.

RNAO appreciates the opportunity to present this submission on Bill 140 to the Standing Committee on Justice Policy.

Ontario's registered nurses know that access to safe, affordable housing is a fundamental human right and a key determinant of health.

There is an urgent need to tackle access to affordable housing. We need to work together on the crisis that is with us now because it is tipping too many Ontarians into deeper and sustained poverty.

In 2009, despite an economic downturn, average rents increased three times the rate of inflation across the province. One in five tenant households are paying 50% or more of their income on rent.

At the beginning of 2010, there were more than 140,000 households on municipal waiting lists for social housing. This is a staggering increase: almost 10% in a single year. The social housing wait times are often more than five years in many areas. There are, for example, more than 14,000 families on the up-to-21-year wait time for Peel. It is truly difficult to know how many really need social housing in our province, as many people are too discouraged by the long wait times to even fill out the applications.

Dangerously low social assistance rates, precarious low-wage employment and lack of access to affordable housing mean that people living in poverty in Ontario routinely have to decide between paying the rent or buying food. The result is that 402,000 Ontarians a month were forced to turn to food banks in 2010.

People who are homeless or are precariously housed are sicker and die sooner than the general population. A Street Health Nursing Foundation survey found that the daily lives of homeless people were stressful, isolating and dangerous. People were often hungry, chronically ill and unable to access the health care that they so desperately required.

For every person who is homeless in Canada, there are 23 households that are vulnerably housed and at high risk of becoming homeless. Dr. Hwang at the Centre for Research on Inner City Health explains that "those who are vulnerably housed often suffer from the fact that they are hidden away from the public eye and forgotten."

The Wellesley Institute uses the metaphor of the housing insecurity and homelessness iceberg, where the biggest part of the problem is mainly hidden from our view.

While the visibly homeless need critical attention, we must also meet the urgent needs of the hidden homeless, those who are living in substandard housing, in inadequate housing and in unaffordable housing, whose rent exceeds 30% of household income.

Despite the compelling and growing need, Ontario is the worst among the provinces in terms of jurisdictional investment in affordable housing. In the fiscal year ending March 31, 2009, Ontario spent \$64 per capita on affordable housing, about half the national average spent by other provinces of \$115 a person. Nurses find this to be a shameful reality in a country as wealthy as Canada and in a province as privileged as Ontario.



To enable every Ontarian to live poverty-free and with dignity, all levels of government have particular responsibilities and a moral imperative to work together for the common good. If other levels of government are lagging in their actions, it is even more critical that the provincial government move ahead with increased, predictable and sustainable funding.

RNAO's recommendations for your consideration are as follows:

Immediately enshrine the human right to adequate housing in federal and provincial legislation.

Immediately implement the recommendations of the Ontario Human Rights Commission to address discrimination in rental housing.

Implement the LeSage report recommendation for "significant legislative amendments" to address rent and subsidy calculations as well as the arrears process with respect to rent-geared-to-income and other rules that are, by their nature, punitive.

Introduce inclusionary housing by amending the Planning Act as a fair and fast way to create stable, affordable and equitable housing.

Introduce and fund in the upcoming budget a universal housing benefit for all low-income Ontarians, whether receiving social assistance or not, to address the gap between tenant incomes and housing costs.

Invest, in the upcoming budget, in a minimum of 10,000 affordable housing units each and every year for the next 10 years. To ensure that housing is accessible to people with disabilities, all new affordable housing units must be designed and built using principles of universal access and accessibility.

Fund in the upcoming budget a program for regular maintenance and repair of new and existing affordable housing in order to address aging and substandard housing stock.

Increase in the upcoming budget the funding for access to supportive community-based housing and services for those with physical, cognitive and/or mental health and/or addiction needs so that Ontarians may live with dignity in their homes.

Prevent the privatization and sell-off of social housing by amending legislation to protect it as a public asset.

Improve fairness for tenants by creating an independent panel to review disputes such as the cancellation of a rental subsidy.

Introduce a fair, transparent and independent appeals process for housing providers. Under the existing legislation, non-profit organizations and co-ops have not had the ability to seek an independent review of a municipal service manager action or decision that did not, in the end, involve costly court proceedings.

Thank you for the opportunity to convey the abiding concern that Ontario's registered nurses continue to have about Ontario's long-term affordable housing strategy, Bill 140, and the unmet needs that exist for affordable and healthy housing. We look forward to working together with government and a wide range of stakeholders in the community, especially those most affected by

housing challenges, so that everyone in our province is secured with a safe, affordable place to call home.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Fucile. We have about two minutes per party for questions. We'll start with the PC party. Ms. Elliott.

**Mrs. Christine Elliott:** Ms. Fucile, thank you very much for appearing here today and for bringing forward these recommendations, which are quite comprehensive and many of which I would certainly agree with, particularly as they pertain to the comments made by the select committee. I think we're ad idem with a lot of those comments.

With respect to the contents of the bill itself, what are your feelings about it? How far does it go in the bill itself in terms of meeting the requirements of a proper housing strategy?

**Ms. Wendy Fucile:** My first comment would be that the bill is incredibly complex and technical, and I would not hold myself up to be any kind of an expert on it from a legislative perspective.

It's a beginning, but it doesn't go far enough. There are elements we are seeking to solicit support for, in particular the philosophical change as well as the hard, "boots on the ground," I think my colleague before said, actions that need to come that would see housing as a social right, as a public good and something that we guarantee to everyone in the province. As I said, a beginning, but not far enough.

**Mrs. Christine Elliott:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** From the NDP, Mr. Kormos.

**Mr. Peter Kormos:** Thank you, Ms. Fucile, very much. You call for the prevention of the privatization and sell-off of social housing by amending legislation to protect it as a public asset. Especially in the wake of the disclosures around Toronto Housing, the prospect of privatization has been fuelled and discussed, at least by certain camps in the city. Why is it important to keep it as a public asset? There are those who would say, "No, you could privatize it. We can have rent vouchers. We can trust the private sector landlord to provide affordable housing, and maybe they can even do a better job." Why do you say it's important to keep it public?

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**Ms. Wendy Fucile:** For the same reason that the registered nurses in this province would tell you that health care should not be privatized. If you have a public good, a social good—if you take a skim off the top of that to create profit for private investment, then clearly the money that is becoming profit is not being driven to the service of those who need that public good.

We would like to see all of the dollars related to social housing be in the public sector and not being siphoned off to create profit. It just misuses that funding, in our view.

**Mr. Peter Kormos:** I appreciate those comments. Thank you, ma'am.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party for questions. Ms. Cansfield.



**Mrs. Donna H. Cansfield:** Thank you very much, Ms. Fucile. I just want to say thank you for a very thoughtful presentation and to say thanks again for just taking the time to come and share your perspectives, especially the more philosophical as well as just the technical. I think that's really important to hear, so thank you for coming.

**Ms. Wendy Fucile:** You're welcome.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you again for your presentation today.

#### CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION

**The Chair (Mr. Lorenzo Berardinetti):** Members of the committee, the next presentation was scheduled for 3:45, and it's the—I'm sorry; it was scheduled for 4 o'clock. The Centre for Equality Rights in Accommodation; Leilani Farha is here. I understand you don't have your documents with you here, but I'll ensure that the committee members get a copy of your document as soon as possible.

Once again, welcome.

**Ms. Leilani Farha:** Thank you, and I apologize if I seem like I'm scrambling. Your efficiencies have meant that I'm denied 15 minutes of mental prep and downtime. So allow me to begin.

I'm Leilani Farha. I'm the executive director of CERA, the Centre for Equality Rights in Accommodation. CERA is a provincial organization, and we use human rights law to address discrimination in all types of housing, whether public or private. We've been around for about 25 years in this province, and I'd say that my comments are based on our 25 years of experience in the area of housing.

I should say also that my comments should be taken in conjunction with the next speaker, Mr. Bruce Porter, of the Social Rights Advocacy Centre. We did prepare our presentations together, and they sort of hang as a whole. I am going to focus on key components to a housing strategy that are in keeping with international human rights law and this province's obligations. Mr. Porter will follow with some concrete suggestions as to how the committee members might amend Bill 140 to include key recommendations of United Nations bodies.

I think the long-term affordable housing strategy is a significant and important addition to the housing landscape in the province. It is a direct response to years of advocacy by provincial and local organizations, as well as by individuals whose interests are at stake. It also is a response to what the United Nations bodies have been saying to both Ontario and Canada as a whole.

Bill 140, as the sole legislative aspect to the long-term strategy, needs to incorporate, in CERA's opinion, five key components in order to comply with international human rights law. I'm going to ask you to keep in mind that Bill 140 is the only piece of legislation in the province to deal with homelessness and affordable housing head on. I think in light of that, we as advocates, and you

as committee members and members of the Legislature, need to ask ourselves, "What does this piece of legislation need to do?"

It's CERA's position that the long-term affordable housing strategy and the enabling legislation of Bill 140 needs to incorporate the following five elements, and these five elements would be in keeping with a human rights approach that the previous speaker just mentioned. I don't consider these to be lofty principles or ideas; I actually consider these to be five very practical things that should be incorporated.

(1) Bill 140 needs to prioritize the needs of those groups that are most vulnerable to homelessness and inadequate housing.

(2) It needs to include meaningful participation of civil society, stakeholders, indigenous representatives, groups vulnerable to homelessness and local governments in the design, implementation and monitoring of the strategy.

(3) It needs to set targets and timelines to end homelessness.

(4) It needs to include accountability mechanisms, independent monitoring and review of progress and implementation of the strategy, and an individual complaints mechanism that would provide a venue for the hearing of complaints of violations of the right to adequate housing, and a means to effective remedies.

(5) It must be based in human rights law, particularly the international right to adequate housing.

Where do these five components come from? Did CERA just imagine them, sit down and think creatively one day? Most definitely not. Over the last several years, the United Nations has laid these out succinctly and clearly in its various reviews of Canada. The document that I was going to provide and that I will provide to you provided a summary of all the different things different UN bodies have said that need to be incorporated into a housing strategy. They're very clear and precise. I'm going to just try to take you through what the UN has said at various times in recent history to give you a sense of how concrete the UN has been and how concrete the measures can be.

Every time Canada has come under review by international human rights bodies, its record on housing and homelessness has been a subject of concern. Invariably, UN review bodies express concern about the inadequate housing and homelessness for the most vulnerable groups, the lack of housing strategies—federally and across the country—and the lack of accountability mechanisms.

I'm going to take it all the way back to 1991, when the Committee on Economic, Social and Cultural Rights issued what they called general comment number 4 on the right to adequate housing. This UN committee is responsible for reviewing Canada's compliance with its international commitments, especially in the area of social and economic rights and the right to housing. This committee adopted general comment number 4 and said that in order for a state to comply with the right to adequate housing under international law, it will almost



invariably require the adoption of a national housing strategy.

Now, you're going to hear me refer to "national" and "Canada" and "the state." The UN is well aware that Canada, like many other states, is a federation and that there are jurisdictional issues. They are well aware that the provinces and territories have a significant role to play. You'll see, as I go through further comments that the UN has made, that they've been very clear that the provinces and territories need to be involved in developing housing strategies.

In 1998 and in 2006, when Canada was up for review by this Committee on Economic, Social and Cultural Rights, the committee expressed concern about inadequate housing and homelessness among particularly vulnerable groups. They made the following very clear recommendation: The federal, provincial and territorial governments must address homelessness and inadequate housing as a national emergency. Then they said that the committee urges Canada to "implement a national strategy for the reduction of homelessness that include: measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures and transparent accountability mechanisms, in keeping with" international human rights law. That should sound like an echo of what I said at the very beginning about the five components that should be included in any strategy.

I'd also draw your attention to the recommendation by the committee—I didn't read it out to you but you will get it in paper form—where they were very clear that any housing strategy has to go beyond just social housing and must include other things like increasing shelter allowances and social assistance rates to realistic levels and providing adequate support services for persons with disabilities.

The recommendations, in 1998 and 2006, of the Committee on Economic, Social and Cultural Rights were underscored quite recently when the UN special rapporteur on adequate housing, Miloon Kothari, came to visit Canada on a mission. I don't know if any of you were aware of this, but the UN has a procedure where independent experts can visit countries if they feel there's cause for concern. Miloon Kothari came to Canada in 2007 because he had seen what was being said about Canada previously by these other UN bodies and he was very concerned. He spent a good deal of his mission in Ontario, both in Toronto and Ottawa, and I think he also went to some rural areas.

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As a result of what he saw and heard in this province and elsewhere, his recommendations ended up mirroring those of the Committee on Economic, Social and Cultural Rights. He specifically recommended that Canada adopt a comprehensive and coordinated national housing strategy based on the indivisibility of human rights and the protection of the most vulnerable. This national strategy should include measurable goals and timetables, consultation and collaboration with affected communities,

complaint procedures and transparent accountability mechanisms. So you hear the echo again, the same recommendation being trotted out again; this is for the third time.

Finally, and most recently, under a process called the universal periodic review, which is undertaken by the Human Rights Council at the UN—the Human Rights Council is the highest human rights body at the United Nations. That review mechanism, the universal periodic review, is quite interesting because it's not independent experts reviewing Canada, like the Committee on Economic, Social and Cultural Rights. At the Human Rights Council, it's states reviewing other states. So it could be the United Kingdom taking a look at Canada and how Canada's doing with respect to its international human rights obligations. In that review process, the Human Rights Council recommended that Canada "intensify the efforts already undertaken to better ensure the right to adequate housing, especially for vulnerable groups and low-income families." Canada then publicly committed itself to this recommendation. Before the United Nations, it said, "Yes, we accept this recommendation."

Before I close, I want to express CERA's real concern with the lack of recognition of the most marginalized and vulnerable groups in Bill 140, particularly in the sections of the Housing Services Act that deal with homelessness plans. For example, as it stands at section 4, on provincial policies and local plans, there is no reference to vulnerable groups at all. In section 6, which outlines what the plans must include, there are no explicit references to ensuring the needs of the most vulnerable groups, that those needs are to be considered in the development and implementation of the plans. In section 7, I think it is, where it calls for consultation, it just says consultation with the broad public; it doesn't identify those with particular needs.

I don't think it takes CERA's experience to know that homelessness and inadequate housing is directly linked to prevalent systemic patterns of social and economic disadvantage, and that several groups are disproportionately affected amongst the homeless population. The groups I have in mind include, of course, persons with disabilities. I don't know if you know, but the Mental Health Commission of Canada reports that between a quarter and half of the absolutely homeless suffer from mental illness. Aboriginal people: In Toronto, aboriginal people comprise 0.5% of the population but 15% of Toronto's homeless population and 26% of homeless people sleeping on the street. Families with children, particularly single moms, are a significant and growing population amongst the homeless. Older people are being seen more and more in the homeless population. And youth as well are obviously a disproportionate segment of the homeless population.

I also don't think it takes CERA's expertise to know that without the meaningful inclusion of these groups and their representatives in the development and implementation of homelessness plans, their needs and interests are unlikely to be included and the plans are unlikely to be effective in addressing the needs of these groups.



CERA submits that Bill 140 be amended to include the five components required for the long-term affordable housing strategy to be in keeping with the province's international human rights obligations. This recommendation is in keeping with the submissions made by the Wellesley Institute and the forthcoming submissions that will be made by Bruce Porter of the Social Rights Advocacy Centre, and I now learn that they are also in keeping with the previous speaker, I think, the nurses' association.

In closing, international human rights law is often perceived as lofty, not practical, and having really very little to do with provincial legislation and policy. We at CERA beg to differ. In its recent policy statement on housing, the Ontario Human Rights Commission took a practical approach, using international human rights principles to interpret its own statute with a view to making sure that international human rights, like the right to adequate housing, are, in the words of the commission, "lived rights for all Ontarians."

This committee can do the same thing by amending Bill 140 in keeping with international human rights principles.

Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about a minute and a half left, so we'll try for a few quick questions from the committee. We'll start this rotation with the NDP. Mr. Kormos?

**Mr. Peter Kormos:** I'm fine, thank you, Chair. Thank you, Ms. Farha.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Cansfield?

**Mrs. Donna H. Cansfield:** No, I'm fine, thank you.

**Mr. Mike Colle:** May I ask a question?

**The Chair (Mr. Lorenzo Berardinetti):** Sure, Mr. Colle.

**Mr. Mike Colle:** I'm not fine. I guess the question is—I think all of us around this table, no matter what party, understand that there's a real gap in providing housing, especially for the vulnerable, seniors, the poor. That's obvious. It's in every community. Whether you're in a city like Toronto or you're in Welland, there's poverty and people can't get a good place to live.

Yet it just astounds me that, whether it's the public media out there—I know Mr. Kormos mentioned that it made the media because there was an issue about Toronto Community Housing and its spending or something. But it never seems to penetrate—in the public realm, the media, government, whether it's the federal government election that's coming or the provincial government election, the whole thing about housing never seems to become a dominant issue, and not even dominant, but just a real bread-and-butter issue that gets discussed and debated and profiled. I just wonder why that happens.

**Ms. Leilani Farha:** I don't have an answer as to why it happens, but I would dispute that housing doesn't come up and isn't on people's radars.

There was a study done on people across Canada, asking them what their top five issues of concern are. Of course, health was right up there, but so was homelessness and inadequate housing. That study was done by the Centre for Policy Alternatives.

Also—and I think Mr. Porter will speak to this—there is a piece of legislation at the federal level right now called Bill C-304 that is a private member's bill, but it has made it all the way to third reading and, but for an election call, could see the light of day. It has the support of all three opposition parties, as well as support from community groups and individuals across the country. It is, in fact, incredible how much support this bill has garnered.

**Mr. Mike Colle:** Whose bill is that?

**Ms. Leilani Farha:** It's Libby Davies's bill, Bill C-304. As I said, Mr. Porter will speak to it.

But even Mr. Ignatieff did mention affordable housing when he was talking about the budget just a couple of days ago. As one of his three issues, he did put out there the fact that affordable housing wasn't included in the budget. So I would beg to differ a little on whether or not we're seeing that housing is understood as a really important issue.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Elliott?

**Mrs. Christine Elliott:** Thank you. I would agree with you. I think it is starting to become more and more of an important issue, and I think some of the work that the federal mental health commission is doing as well on the homelessness issue is helping to sort of break the ice and lead the way to that.

Thank you very much for your presentation. I think you've raised some really important issues. I'm just wondering if there are any specific amendments that you would like to see to this particular bill that you'll be presenting or that you could send along to us.

**Ms. Leilani Farha:** Mr. Porter is going to speak to some of the types of amendments that we're looking at. We haven't drafted amending legislation; we thought that that could be done in conjunction with committee members. But he will speak more specifically to what sorts of amendments we'd be looking at.

**Mrs. Christine Elliott:** Wonderful. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Farha, for your presentation. We'll await your documents.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Oh, it has been circulated, actually. Okay, thank you.

#### SOCIAL RIGHTS ADVOCACY CENTRE

**The Chair (Mr. Lorenzo Berardinetti):** The next presentation is from Mr. Bruce Porter of the Social Rights Advocacy Centre. Good afternoon and welcome to our committee.

**Mr. Bruce Porter:** Good afternoon, Mr. Chair. Thank you very much.



I have provided two documents. One is the notes for my remarks, and then there's Bill C-304, which Ms. Farha just mentioned as the important federal housing strategy legislation which is at third reading in Parliament. It does have the support of the majority of parliamentarians.

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One thing I would just add in reference to that bill is, although it was originally an NDP bill with Libby Davies, and of course continues to be so, it was subject to some pretty thorough review. A number of the amendments that were particularly important to what we're talking about today, which is kind of the human rights framework that needs to be a part of any housing strategy, as has been recommended, as Ms. Farha described, by a number of UN bodies—those components were actually added by committee after second reading, so I'm going to be highlighting those, in particular. You'll see that we've highlighted a number of those provisions in the copy of Bill C-304 that we've provided.

Very briefly, what we're proposing is that the really core thing in Bill 140 that we feel needs to be added is a kind of human rights framework that's consistent with the kinds of recommendations that Ms. Farha has described.

Housing, of course, is a fundamental human right. We hear that said all the time, but what does it really mean? We have the chance in this legislation to really fill that out. I want to use Bill C-304 federally as an example of what legislation looks like when it follows the kinds of recommendations that Canada and the provinces have received. How do we actually make a human rights framework seem real?

People kind of think, "Well, sure, housing's a right, but look at all the homelessness around the world." There's a sense that it can't be taken very seriously. In fact, nothing could be further from the truth. The right to adequate housing is a very fundamental human right in the international system. I think what we need to remember is that under international law, the obligation is to implement the right to adequate standing commensurate with available resources and by appropriate means. This is why the extent of homelessness in Canada has been taken so seriously by the various UN bodies and why the special rapporteur took it upon himself to have one of his few country missions be a mission to Canada.

The problem in Canada is that, obviously, we have widespread homelessness, but worse than that we have the resources available to solve this problem. The UN has seen it get worse and worse during periods of economic vitality and widespread affluence. What is the problem here? How can we solve it within the kind of human rights framework that the UN has been proposing?

As Ms. Farha said, there are really five key components to a human-rights-based approach. All of those have been incorporated in Bill C-304 federally, and we believe that they could all be incorporated through appropriate amendments to Bill 140.

If you look at the first one that I've mentioned, it's a reference to the right to adequate housing. Senator Eggleton

strongly recommended in the In From the Margins report, from the Senate subcommittee, that legislation dealing with housing and poverty should really refer to Canada's and Ontario's obligations under international human rights law.

It's not just an obligation of Canada, remember. When Canada ratified these various covenants recognizing the right to adequate housing, it did so with the consent and agreement of Ontario and the other provinces, that within provincial jurisdiction, the rights would be guaranteed and implemented. It's really quite appropriate and necessary to have within legislation, which is the implementation of Ontario's housing strategy, a reference to the fact that in Ontario housing is considered a fundamental right.

We've proposed wording very similar to that which is contained in Bill C-304, which you'll see throughout its preamble, and even in its description of the housing strategy that must be implemented by the minister under the requirement of Bill C-304. The federal minister is required to implement a strategy which respects, protects, promotes and fulfills the right to adequate housing as guaranteed under international law. We would propose that the same kind of commitment be made in Bill 140.

To the definition section we could say that "the right to adequate housing" means the right to adequate housing as it is guaranteed under international human rights law. This would be an appropriate reference point and framework for an improved housing strategy in Ontario.

The second component that was considered key, at the bottom of page 4 of my submission, is the meaningful participation of civil society, key stakeholders and vulnerable groups.

As Ms. Farha mentioned, the consultation with the public that is described in Bill 140 is solely being done by service managers locally. We feel that, to have a proper human rights framework, the involvement of stakeholders, or what they call "rights holders" in the international human rights jargon, is critical.

So something along the lines of what Bill C-304 has, where it requires the minister to convene a conference of representatives of municipalities, aboriginal communities, non-profit and private sector housing providers, and civil society organizations, including those that represent groups in need of adequate housing: That kind of participatory structure is key to a human rights approach.

The third key principle was measurable goals and timetables for the reduction and elimination of homelessness. This is a critical omission in Bill 140. Almost all advanced countries now have homelessness strategies and it's really become the norm that you have a meaningful target for the reduction and elimination of homelessness. It has to be a meaningful commitment. That's been built into Bill C-304 as a federal commitment, but it has to be built into a provincial commitment as well. It's a target that should be meaningful, that can be negotiated with municipalities. We're not talking about pie in the sky stuff, but we need very measurable goals that can be monitored and implemented.



The fourth key point was identifying barriers and prioritizing the needs of vulnerable groups. Again, we've taken wording as a proposed amendment to section 5 in Bill 140 that would take the kinds of priorities that are established federally in Bill C-304 and parallel those with provincial prioritizing of groups, such as those that Ms. Farha was talking about, particularly people with disabilities, where housing has to be accompanied with adequate support services. I've got an example there of the kind of amendment that would mimic the wording of Bill C-304 that identifies the particular groups that need to be prioritized.

Finally, and perhaps most importantly, is the requirement of transparent accountability mechanisms, including independent monitoring, review and an individual complaints process.

We've learned through experience that human rights require some kind of independent accountability mechanism. When governments say they believe in human rights, they also create human rights commissions and human rights tribunals. It's not good enough to just say that we think housing is a human right; we have to show that the commitment is real enough that we will have some independent body do the monitoring and actually provide a hearing for people who are finding out that there's something in the housing strategy that hasn't been addressed and needs to be. We have to have that ongoing kind of accountability to the people whose rights are at stake for them to be able to get a hearing and say what's wrong. So again, we've taken wording from Bill C-304 that could be incorporated into Bill 140 in terms of the creation of an effective monitoring mechanism.

Finally, Bill C-304 also talks about the need for provincial follow up to UN bodies' concerns and recommendations. It's been repeatedly raised at the United Nations that in Canada, so much of the responsibility for key human rights, like the right to housing, falls within provincial jurisdiction. There isn't really that much point in the UN bodies and the special rapporteur making all of these recommendations if there's no mechanism to guarantee that the province follows up on the recommendations and concerns, and addresses them. That too has been built into Bill C-304, and we have proposed an amendment to Bill 140 which would provide for the same kind of mechanism.

Those are the key provisions that we would like to see incorporated. We think that they do fall properly within the scope of Bill 140 and within the whole vision of Bill 140, which is community accountability and effectiveness, and realistic goals and timetables for implementing the right to adequate housing, as Ontarians want and deserve.

Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Porter. We have about six minutes left, so two minutes per party. We'll start with the Liberal Party. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you, Mr. Porter. I don't have any questions. I actually want an opportunity

to reread this—it was hard, because you sort of jumped a little bit—and also to look at the bill and do some comparison. So I thank you for that. It was a very thoughtful presentation.

**Mr. Bruce Porter:** Thanks very much. I might mention that it was Gerard Kennedy who took the lead at the federal committee when there were human-rights-based accountability mechanisms that were being addressed through amendments. His office would also be a useful resource for you.

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the PC Party. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you very much, Mr. Porter. I really appreciate the human rights perspective that you and Ms. Farha have brought to this discussion. I certainly recall, as do several members of this committee, how the issues with respect to housing and homelessness were raised when we did the human rights review in 2006, I believe it was. I know it's a real issue out there. I certainly do appreciate the suggestions that you've made and look forward to seeing how we can implement them as amendments to the bill. If you don't mind if we call you for further advice as we get ready to do our clause-by-clause, we'd be very grateful.

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**Mr. Bruce Porter:** Thanks very much. I appreciate that.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll go to the NDP. Mr. Kormos.

**Mr. Peter Kormos:** Thank you. I've read most of your submission; I had to leave for a minute, but I've read Bill C-304. Why do you think that's important, when it's a paper that's going to be tabled? Is it important because the Parliament will have acknowledged in the preamble the United Nations's Universal Declaration of Human Rights with respect to housing? Is that what makes it important? Or the fact that there's a strategy developed that may never be implemented? Seriously, what makes this important?

**Mr. Bruce Porter:** Thanks for that question. It really has become an important model to look at, actually, in other jurisdictions. We've struggled with the kind of legislation that would be appropriate for the right to adequate housing. As Ms. Farha was tracing historically, there's been a movement towards the notion of a legislatively implemented strategy.

That sounds soft, but the problem with the right to housing is it's not just a right to social housing, it's not just a right to an adequate level of shelter allowance and social assistance, it's not just a right to non-discrimination; it involves a coherent, consistent approach to a whole myriad of programs, policies and so on that have to be informed by that fundamental value. So if somebody's homeless because of eviction procedures that aren't adequately taking into consideration the problems they're facing, or if they're homeless because welfare hasn't been raised adequately to deal with the increased cost of housing, or because employment insurance is not



providing proper protection for women who are working part-time, those are the kinds of issues that all need to be thrown into the hat, in terms of trying to figure out what we do with this problem. And of course, then there are the unique needs of all of the different groups.

The problem in the past has been that we've thought of rights violations as one particular provision in one piece of legislation, which is somehow a violation of a right. But what we deal with really when we're talking about the number of people who are homeless in Ontario is a failure to look at all these programs and try to figure out the key value in hand. We want people no longer to be homeless in this province. There's no need for it, there's no excuse for it. We want it to be solved.

Really, what the amendments that we're proposing and what Bill C-304 would have done federally is simply say it has to be joined, it has to be developed with the participation of stakeholders and civil society and housing providers, it has to be committed to the notion that homelessness can be and will be eliminated and it has to have monitoring so that there's an ongoing accountability. In other words, we're not going to solve it all in one fell swoop, in one piece of legislation, but we can create legislation that actually starts a process.

And that's consistent with the way the right to housing is thought of internationally. It's a process. It does take time. It has to be commensurate with available resources; they're not trying to be unrealistic about this. But what is so shocking to the UN about Canada is that we don't even have a strategy. We don't even have what Bill C-304 would put in federally or what we're proposing be put into Bill 140. At least then, we could go and say, "We know that this is a problem; we know it has to be solved. We've got legislation which is going to require the minister to convene a meeting and we're going to solve it." That kind of commitment really needs to be embedded in legislation.

**Mr. Peter Kormos:** Thank you, sir.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Porter, for your presentation.

#### CO-OPERATIVE HOUSING FEDERATION OF TORONTO

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation, which was scheduled for 4:30, but the presenter is here now, the Co-operative Housing Federation of Toronto, Mr. Tom Clement. Good afternoon and welcome to committee.

**Mr. Tom Clement:** Thank you for this opportunity. I appreciate the opportunity to make this presentation early.

I'm going to give you a little bit of background on the Co-operative Housing Federation of Toronto. We're an organization that was founded in 1974. We're owned by our members and we have a democratically elected board, just like a housing co-op. We have 168 co-ops within our membership and we represent 45,000 people in the greater Toronto area, what we would call Toronto

and the southern part of York region. We provide services and advice to those co-ops. When there is an opportunity to develop new co-ops, we do that as well. We have a number of enhanced services, including a scholarship program for our young people to give them an opportunity at post-secondary education.

I was glad to see the recognition of community as part of this legislation because in housing co-ops, we see that as an integral part of what we do. Each co-op is independently managed, as you know, and they elect their own board of directors. We really see that as an opportunity for people to gain management experience and to gain new skills, but most importantly, to have management of the community that is close to the ground. It is run by the residents, and like any form of democracy, there are high points and low points, but it is an opportunity for the residents to engage in management of the housing co-op.

We see that as an integral part of what we do. We see that having volunteers involved in the community improves the community. We see that the co-op allows people to gain skills to take to other parts of their lives. They get involved in the wider community. Where you see a concentration of housing co-ops, you'll also see that people from housing co-ops are also involved in the community groups. I think that we can all agree that having citizens engaged in the running of our society is very important. We see this as a really good improvement in the legislation and want to compliment you on that.

There are some other things that I'd like to comment on. One is, as you know, we're concerned about co-ops being put in receivership and the cost of that. So we're advocating some sort of review mechanism, should a service manager decide to put a co-op into receivership. We think that this would be a more cost-effective way than having to go to court to do this.

In this area, we've had a lot of dealings with our service manager, and I would describe our relationship as a good relationship. That doesn't mean that we always agree, but that means that we consult on things. Over the last number of years, that service manager, the social housing unit of the city of Toronto, has had discussions with us where they looked at putting six co-ops into receivership. I'll tell you a little bit about the experience.

We were brought in on the decision late on one co-op, and they went into receivership, but in the discussions that we had with the city, what we were able to do was to get the city to offer us some assurances that, in fact, the co-op would come out of receivership. We were able to build that in, but my understanding from talking to my colleagues in other parts of Ontario is that that hasn't necessarily happened. In many cases, the co-op housing sector has had to go to court to fight receivership.

In another case, we were consulted on the receivership, and we did agree that that was the only way to remedy the problems in the co-op.

There were another four cases where co-ops had to do construction, and it was thought initially by the service



manager that probably the best thing was to put them into receivership. But through some discussion and at times very vigorous discussion with us, we were able to convince the city that there were other alternatives to receivership. So those four co-ops did not go into receivership. We set up various mechanisms so they could get the work done, so that they could have good governance while they were getting the work done. Now all four of those communities are operating.

I mention these because there was consultation. We weren't guaranteed that consultation, but in other areas, we've had co-ops go into receivership and run into big problems. We would think that there needs to be a way to guarantee that the service manager's decision can be reviewed. We were lucky to have consultation, but there is a need to do that, and we feel very strongly about that.

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I'm not going to have a lot of issues to raise with you today, but we would like to express some concern that a co-op could run into a problem with a deficit in a single year, and they could find themselves getting a triggering event letter or being in breach. So we would be very concerned. I think as people who have run businesses and run government, you know that if there is a problem with a business, that a business can go into deficit one year—it can have some extraordinary expenses in one year—but that doesn't mean that it's being poorly managed. Accumulated deficit is different, but a single-year deficit, we would be very concerned that the co-ops run into problems with that.

Basically, I'm open for questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about nine minutes for questions. We'll start first with the PC Party. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you very much for your presentation, Mr. Clement.

The issue of the review process has come up with several presenters, as you've probably heard. Do you agree with the mechanism that has been proposed, sort of an arbitration system that has been recommended by several of the presenters?

**Mr. Tom Clement:** I think that's one way to do it. I can't say definitively that I know that that would work, but I think that's a good start. That's something that we should look at, absolutely, rather than the cost of going to court.

**Mrs. Christine Elliott:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** The NDP, Mr. Kormos.

**Mr. Peter Kormos:** Explain to us, paint the picture again, what it means when a co-op goes into receivership and what happens if it doesn't get out of receivership.

**Mr. Tom Clement:** Well, if a co-op goes into receivership, they lose control over their finances; they lose control over their governance. The very thing that strengthens the co-op—having the democracy on the ground—is gone, and they don't have say in what's happening. Potentially, that co-op could be sold and moved into another form of housing, when in fact the people

who moved into the co-op made a conscious choice to move into the co-op, and it's very important to them. The problem that may put them into receivership may have nothing to do with the actual people there. They may have a bad building, for example.

**Mr. Peter Kormos:** But then that's, in and of itself, problematic, right?

**Mr. Tom Clement:** I'm sorry, could you say that—

**Mr. Peter Kormos:** You say they may have a bad building, for example. That's a pretty shocking revelation about that building.

**Mr. Tom Clement:** When I say a bad building, I mean bad construction. Sorry.

**Mr. Peter Kormos:** No, I hear you—but even then. So what's the solution? Because, you see, some folks here talked about legislative bars from converting public and co-operative housing—social housing—into private housing. You're not talking about, necessarily, a legislative bar; you're talking about ways of avoiding an overly onerous receivership or an unjustifiable receivership.

**Mr. Tom Clement:** Yes.

**Mr. Peter Kormos:** But are there justifiable receiverships? Is this what you're telling us?

**Mr. Tom Clement:** It may be possible that a co-op is being poorly managed, and we would work with government and anybody to ensure—it's in our best interest to make sure that the co-ops are well managed.

**Mr. Peter Kormos:** Sure. Okay, fair enough. Thank you kindly.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Mr. Colle, from the Liberal Party, go ahead.

**Mr. Mike Colle:** Thank you, Mr. Clement. I was just reflecting: I think the second place I ever lived in after I got married was in a co-op, one of the first co-ops in Ontario in the modern wave of co-ops. It was Ashworth Square in Mississauga. You remember that.

**Mr. Tom Clement:** I know it well, yeah.

**Mr. Mike Colle:** I know we were living in a flat on the second floor of a house, and because the baby was crying, the landlord was giving us all kinds of trouble, so we moved out to Mississauga to the Ashworth Square Co-op.

I guess the good point that you bring out is that co-ops go through transitional periods. I remember the board—if you've got a good group of people on that board and they're involved and they're dedicated, it runs well. But then, all of a sudden, somebody moves on or whatever it is. So you need a good board. Then, invariably, there's going to be friction. There's going to be something, and there are going to be issues, right?

I was talking to my colleague here from Scarborough. Let's not talk about friction when we talk about condos. I'd rather live in a co-op anytime than in a condo. What's happening on condo boards is beyond belief.

Anyway, the critical thing that you mentioned, I think, is that what's needed is, in certain cases, when there are issues and pressures in a co-op, there needs to be some



mechanism to help them get through that transitional period, usually with the financial pressures.

In what you're recommending—I know you talk about receivership when it goes that far—is there anything that we can do in this legislation to put in any kind of process mechanisms that could help, whether it's the co-op association of Toronto or Ontario or Canada, intervene and be supportive so it doesn't fall apart?

**Mr. Tom Clement:** I think that something that would encourage the service managers to more actively consult with us to ensure that we know where there's problems, and to provide some support for us so that we can do the work that we do, which is talking to the residents and whatnot—in some areas, we really do have that. We really do have that, I feel, here in Toronto.

I'm not sure that you can legislate everything. I think that a co-op will go through its ebbs and flows, and sometimes there are issues around governance, as there are in any form of democracy. I'm sure that opposition parties are always saying, "If only we could change the government." This is part of it.

But in a co-op, there are mechanisms that I think are very democratic. I've worked at CHFT for 30 years, and when there's a problem meeting, I often chair it. In a housing co-op, you can actually remove the board of directors. If you think of that—that the members can requisition a special meeting if they think the board of directors is doing a poor job—that is democracy. They can remove that board, and that's where we come in, providing an outside chair so you don't have to wait for the full term to expire, or you don't have to wait for that board to call a meeting, because—and this is enshrined in the Co-operative Corporations Act—the members can call a meeting and remove that board, or they can call a meeting and remove one or two directors. I've chaired many of those meetings, and I think it's a really great democratic system. There's nothing like realizing that if you're not working in the interest of the members, you can be removed.

I just want to be clear with everybody that this isn't happening every night; these are extreme cases. But over the course of the time that I've been at CHFT, I've chaired many a meeting and my colleagues have chaired many a meeting. I think that that's real grassroots democracy.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Clement, for your presentation.

#### CO-OP MEMBER INFORMATION GROUP

**The Chair (Mr. Lorenzo Berardinetti):** Just to advise members of the committee, there's no one scheduled for 4:45. The 5 o'clock presenter just stepped in a few minutes ago—Ms. Sharon Danley, is it? I don't know if you're ready to go right now.

**Ms. Sharon Danley:** Sorry. I just got called to come in a little early, so I'm just a little bit—

**The Chair (Mr. Lorenzo Berardinetti):** Take your time, because I know that we're also photocopying your notes.

**Ms. Sharon Danley:** Terrific. Thank you so much.

**The Chair (Mr. Lorenzo Berardinetti):** Whenever you're ready, let us know and I'll start the clock. You have 15 minutes.

**Ms. Sharon Danley:** I have 13 minutes?

**The Chair (Mr. Lorenzo Berardinetti):** It's 15. I try to be a good timekeeper.

**Ms. Sharon Danley:** Okay.

**The Chair (Mr. Lorenzo Berardinetti):** Welcome to the committee.

**Ms. Sharon Danley:** Many thanks for the opportunity to speak to this committee today on behalf of the co-op housing member residents.

Just to give you a little bit of background, I'm a single senior with two adult disabled children. Living in separate apartments in the co-op sector has afforded me the opportunity to care for my daughter while she experiences as much autonomy as possible, supported by the Ontario disabilities act.

I often joke with my colleagues and friends that I'm like an antivirus running in the background, making sure everything is safe and okay without any notice, but when disaster strikes—which unfortunately happens often, in our case—I'm instantly available.

My son is still waiting, after 12 years, to become a resident of our co-op again, because it appears he made a mistake by taking schooling outside the province. He has a severe heart condition and other disabilities, rendering him unable to continue.

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I had to downsize to a one bedroom, giving him no place to live upon on his return. This is an example of the administrative nightmares with the housing provider and inability of the service manager to clearly and humanely help solve problems of inequity. My son's established housing rights have been cavalierly ignored. That's a bit of background on where I'm coming from.

Once my son is back in residence, which I pray is sooner rather than later—it's been 12 years now—it will help tremendously with our family unit taking care of each other. Otherwise, the institutional costs to the taxpayers would be huge over the long haul. Our family, living under the co-op housing vision, is a model of family caring for itself and raising the esteem of the disabled, enabling contribution back to the community and not burdening the taxpayers further.

Not having a secretary or a wife or a legion of bureaucrats or lawyers on retainer, I and my colleagues are not as equipped as we'd like to be regarding the details of this bill. So I'm just going to stick to the overall approach and some of our personal experiences.

The Co-op Member Information Group is a group of member-tenants from a few co-operatives in the Toronto area that have experienced great difficulty with the administration of our housing providers. Let me interject though, we also acknowledge and know of co-ops that are operating well and the member-residents are very happy and take pride in their community. Those co-ops appear to be transparent and accountable.



However, the ones that don't work have too much latitude to dictate rather than administer, often at whim, with personal agendas and with absolutely no accountability or transparency. When we turn to the service manager in our area—the Toronto social housing unit—to intervene, they have systematically been negligent in dismissing several concerns. Of course, there is documentation and it has been turned over to a higher authority. If things continue as they are, we can see how co-ops run into trouble and end up in receivership. This can all be avoided by each administrative component doing its job and for which, by the way, they are being substantially remunerated.

Contrary to what the Co-op Housing Federation, with great respect—herein, I'll refer to as CHF et al—espouses to government, they do not serve the member-residents. That's been our experience. They serve only the boards and staff of co-ops. When several of us have collectively encountered continual diminishment of our concerns, treated with disdain, verbally abused and even bullied—again, all documented. Please hear this: They do absolutely nothing to help the member-residents, and there are questions of possible profiteering that have been suggested and need to be looked at just to confirm either one way or the other.

The Financial Services Commission, the Human Rights Commission, several community legal services, and women's advocacy and resource agencies are well aware of the problems with CHF et al and the inherent problems in the co-op housing sector due to lack of proper, accountable administration: What a waste of time, taxpayer money, and member-resident money paid to CHF for membership in the association, and a deep fracturing of the community.

We are very pleased to see the reduction in the role of the housing providers. Often they do not have the degree of higher skilled business acumen. We feel they definitely need supervision. However, we feel the flexibility for service managers and housing providers needs to be completely transparent and accountable. This is where an independent and fair system of dispute resolution, which should also be completely accountable, should be instituted.

What we like: We're glad to see attempts through triggering events to stop the problems before they get worse. Reviewing service managers' decisions by housing providers and housing providers' actions by member-residents is a huge problem. The courts are expensive and the human rights are overloaded. Once again, transparent administration right from the get-go would alleviate this problem and a lot of the other questionable practices and problems being experienced early on.

The concern for service managers to have too much power in the dissolution and sale of co-op property would be a moot point if the administration of the co-op were handled correctly and transparently in the first place. This is where triggering events and complaints from member-residents as red flags would prevent getting to the receivership stage.

Our concerns: The wait-list and priority wait-list are a web of intrigue, misunderstanding and poor and questionable administration. For example, how is it that a person coming from domestic abuse—which should be a limited-time problem—overrides a person with lifelong disabilities? I need to clarify here: I have advocated and represented both of these groups and others for more than a quarter of a century, so I get it.

It should be mandatory for co-op boards to employ an independent, vetted, arm's-length board member for purposes of transparency and accountability at board meetings and to diminish the misuse of confidentiality, often used by boards and staff to keep information hidden from member-residents.

We are concerned that CHF et al may be used by the government as a service agency. If this is the case, we feel that it would be a huge mistake.

Review officers can be used as a scare tactic by housing providers against member-tenants if that's their agenda. How is an investigation determined? How are these officers picked and vetted? How will the transparency and accountability work?

Warrants for searches are bordering on civil liberties infringements. We agree that there are problems with the system—it is misused by some member-residents—but it's also mishandled by the administration in the first place. These administrators have to be made accountable before this becomes a problem. How will these warrants work? What is their purpose? Where is the accountability? Who can set a warrant in action?

Who are the special needs administrators and how are they chosen and vetted transparently?

When the housing provider has failed, who sets the wheels in motion? Can member-residents complain and truly be heard before it gets to this point?

And clarification please on "housing provider": Is it the board? Is it the staff? Or is it a combination of both? Often, it has been our experience that it is the staff who runs the board, which is highly problematic for all the reasons stated earlier.

In my closing remarks, we support the diminishment of housing provider roles, making both them and the service manager transparent at every turn. We support a clarification of the bill and its regulations in a way that builds community for the member-residents so that they are not kept vulnerable by the housing providers or service managers. Correct administration of these laws will give back the ownership of community that the architects of the co-op housing system envisioned and prevent the myriad of problems that have been consistently demonstrated by every level of administration so far.

Once again, an independent and fair system of dispute resolution should be instituted to review the decisions by both housing providers and service managers where questionable practices are in play, and most importantly, where the member-residents can be heard, as nothing has been in place for their voice to date.

It bears stating again that CHF et al. only consults with the boards and staff of co-ops, which they term as



the members, but not the member-residents. It is clearly stated on their website that they will not intervene in conflicts between members-residents and boards. So we hope this bill will take this into consideration and major attempts will be made to include the member-residents to speak for themselves and not through CHF et al. or their co-op boards in future consultations and deputations.

In closing, we thank the members of the committee for giving us the opportunity to express our views. We would be pleased to answer any questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Danley. We have about five minutes to spread out between three parties. We'll start first with the NDP. Mr. Kormos.

**Mr. Peter Kormos:** I'd be pleased to give Ms. Cansfield my time.

**The Chair (Mr. Lorenzo Berardinetti):** Then we'll go to the Liberal Party.

**Mrs. Donna H. Cansfield:** It's very important to hear from the tenants as well so that it's a balanced approach. I really appreciate it when you take the time to do this, given your circumstances. You identified that it's a challenge for you, and I think that's even more appreciative, to be honest.

As I was listening and going through, I would like to take your concerns and, obviously, have some discussions, because I think that that's—I really appreciate you doing this. It was very informative. Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move to the PC Party. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you, Ms. Danley. I'd also like to echo Ms. Cansfield's thanks to you for taking the time to come here in view of the many other responsibilities that you have. I think that you've brought an important perspective to the committee that we haven't heard yet. I really appreciate you doing that. We will certainly take all of this into consideration.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

I've been advised, members of committee, that the final presenter, Lee McKenna from the Association of Ontario Health Centres, is not here yet. I think we'll break for 15 minutes and then come back. I'm looking at this clock here; it says 4:41. We'll come back at, let's say, five minutes to 5. They have been notified, and if they're not coming or are unable to come, we can put them for next week's group of presentations.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** We'll recess for 15 minutes and come back at five minutes to 5.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** I've been given a clock that's radio-connected. It's a fascinating little clock.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** No. I'm using this one, though. It says 4:42 now. We'll come back at five minutes to 5.

*The committee recessed from 1642 to 1648.*

## ASSOCIATION OF ONTARIO HEALTH CENTRES

**The Chair (Mr. Lorenzo Berardinetti):** All right, we'll bring the committee back to order. Our final presentation of the day is from the Association of Ontario Health Centres: Lee McKenna.

I want to first thank you for coming early.

**Ms. Lee McKenna:** You're very welcome.

**The Chair (Mr. Lorenzo Berardinetti):** Welcome to our committee.

**Ms. Lee McKenna:** It just so happened I was right in front of my computer and saw it pop up and was able to come. Thanks very much for hanging around for me. I appreciate it.

**The Chair (Mr. Lorenzo Berardinetti):** If you're not familiar, you have up to 15 minutes to speak. Any time that you don't use up will be used by the committee to ask questions. Thank you.

**Ms. Lee McKenna:** The Association of Ontario Health Centres is composed of a growing network of community-based and governed primary health care organizations: 73 community health centres, 10 aboriginal health access centres and 16 community family health teams, as well as one nurse practitioner-led clinic with proven leadership in poverty reduction programming, making a difference in the lives of Ontarians and building the second stage of medicare through addressing the social determinants of health.

The care delivered at our member centres is focused on those Ontarians who live life on the edge, who experience barriers to accessing the care they need and who end up drawing disproportionately on the health care system.

In an era of renewed conversations around sustainability and poverty reduction, the need for targeted care that avoids more costly care down the road is clear. This government has laudably named the issues we need to deal with in this wealthy province under the umbrella of a poverty reduction strategy. As well, Frances Lankin and Munir Sheikh have begun a review of the punitive and poverty-exacerbating regime of social assistance rules, a process that many of us are watching carefully and; that, it is hoped, will result in a kind of deconstruction and rebuilding that will take us down the path towards poverty eradication. But plans and words, and reviews and strategies are not enough on their own; change is what is needed in the lives of growing numbers of Ontarians.

CHCs and AHACs are uniquely mandated to pay attention to and address the social determinants of health for individuals, families and communities. One of the most important of those upstream determinants is housing. When you look at the list of those determinants, with the exception of food—another challenge this government needs to take up seriously—housing makes all else pale in comparison. If you don't have housing, if you are homeless or if you are living in housing that is inadequate, decrepit, dilapidated and toxic, then you are



unlikely to have the resources, personal and otherwise, to do anything but simply concentrate on the daily business of survival. And many fail at that daily business, to our shame.

The government's late-November, long-delayed long-term affordable housing strategy was a disappointment. Although the elimination or simplification of a long list of complicated rules governing rents in subsidized housing is welcomed, the rule changes constitute thin gruel for what was expected to be of much greater substance. The calculation of income annually instead of monthly will be helpful to low-income households. For those already living in subsidized housing who raise their income levels through paid work, their rent would not go up for a year. Rent could also be lowered for tenants whose income drops substantially between annual calculations.

But for a plan called Building Foundations: Building Futures, it's remarkable that it doesn't actually propose building anything. It lacks concrete goals and intentions and timetables, together with multi-year funding plans, designed to improve affordable housing in the province. For those in rental housing, the plan proposes no new rent subsidies. Census data indicate that one in every five tenant households in Ontario pays over 50% of their income on rent, placing them in danger of becoming homeless.

Since 2007, when the housing strategy was first promised, the wait-list for affordable housing in Ontario has grown by over 18,000 households to 141,635 in 2010. These families will continue to languish on subsidized housing wait-lists of up to 20 years. These wait times should figure as highly in the government's list of priorities as other wait times. Investment in affordable housing through a coordinated strategy is crucial to strengthening Ontario's economy and reducing poverty.

For people living with mental health and addictions, supportive housing is the key determinant of health. Without housing, there is no basis from which to mitigate the factors which lead to homelessness. Without supportive services, the tenant is likely to regress for the reasons that led to their loss of housing in the first place.

The all-party select committee's report on mental health and addictions, entitled *Navigating the Journey to Wellness: The Comprehensive Mental Health and Addictions Action Plan for Ontarians*, was and is a remarkable example of cross-partisan co-operation and consensus-building. A key component in that report was strong agreement on the need for a housing-first policy if we are to ever succeed in our care for our neighbours who struggle with mental health and addictions issues. Housing has to precede and be the foundation upon which comprehensive care can actually make a difference.

AOHC is asking the government to develop an Ontario housing strategy that designates annual funding to build 10,000 affordable homes per year, in addition to ongoing maintenance for existing social housing stock, with 10% of that 10,000 designated supportive housing linked to community-based primary health care and/or social

service agencies, prioritizing the needs of those persons caught in the vortex of mental health and addictions.

As well, we are asking for the creation of a new housing benefit to close the gap between high rents and low incomes, a strategy that works for marginalized communities and legislative changes to better protect tenants and to promote affordable housing.

AOHC calls on the government to amend the proposed legislation to ensure that affordable housing is seen as a public asset to be used for the purposes for which it was designed, not for asset sale to pay down deficits. The new legislation should provide for the creation of an independent panel to review housing providers' decisions that have an impact on a person or a family's ability to remain in social housing. As well, we call on the government to amend the Planning Act in such a way as to permit, or even incent, municipalities to create inclusionary housing policies. If developers want to develop, then they will have to agree to making 10% to 15% of the housing that results affordable to low-income Ontarians. No, they don't like it, but it's the right thing to do.

This legislation, along with the social assistance review, must ensure that tenants living on social assistance should not be punished for finding a job. The Housing Services Act must protect tenants from unjust rises in housing costs due to a tenant's changed employment situation that only ensure that poor people remain poor.

In a deficit situation, we are constantly told that there is no money. We are not unaware of that situation, but we are also aware that there are choices. There is always room for making choices, and we would urge this committee and this government to prioritize the needs of those at the bottom of the social ladder, those who contributed in no way to the financial situation in which we find ourselves and whose presence on our streets, reduced to couch-surfing or park benches or tolerating housing that is in a state of disrepair or toxic, ought to drive us to make the kinds of choices that will bring this situation to an end.

Getting to home, all of us, is what we need. We want to live in a province that regards the right to housing as inalienable. The right kind of 10-year housing strategy, one that goes beyond tinkering to building, needs to begin today with the kind of investment that creates jobs and supports diverse, stable and inclusive communities that will make this province a place of equity and justice, where poverty is history.

Below, you will find recommendations that you've probably heard several times already. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. McKenna. We'll start the questions. We have about six or seven minutes left. We'll start with the Liberals first, and then we'll go around the table.

**Mrs. Donna H. Cansfield:** Thank you very much. That was really a very thoughtful approach from a different perspective than what we've heard. You're right that there are common themes and common threads, but it's from a whole different group of individuals, so thank you. I appreciate that.

Also, it's helpful when having those discussions to put things into some context, and that you really do provide. So I thank you for that as well. It's food for thought, so I appreciate it. It was very well done.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll go to Ms. Elliott.

**Mrs. Christine Elliott:** Hi, Lee. Thank you very much for your presentation today. It is very thoughtful, and I think one of the themes that is really resonating is the fact that this is a long-term process. This isn't just a change in housing policy right now; we're looking at a whole variety of issues that need to be dealt with.

Just concentrating on one that you raised here, number 3, the restrictive, punitive rent-geared-to-income rules, I have to say I've heard that from constituent after constituent who comes to tell me that you just get further ahead, you get a part-time job, and your rent immediately goes up and you're no further ahead. So it's just a constant static situation that people can't get out of, and I think we need to really look at that and how we can make that to a point where people can get ahead and can do the things that they want to do for themselves and their children. So thank you for raising that.

**Ms. Lee McKenna:** Thank you, Christine. Well, when the social assistance review and Frances Lankin and Munir Sheikh were tasked with an 18-month process, it was sort of, "Oh, 18 months. Can't we have something right now?" But I think they're both saying that that's the time that is needed to deconstruct—not just sort of move a few things around, but to really come up with something new and innovative that is going to deal with exactly those sorts of situations that will get people out of poverty and not maintain them where they are.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Mr. Kormos?

**Mr. Peter Kormos:** Thank you kindly, miss.

Your recommendation number 2, preventing the privatization and sell-off of social housing—let me put this perhaps in a little bit of context. In the long-term-care arena, of course, any number of private long-term-care beds are counted as new long-term-care beds, even though they're not public long-term-care beds. When you're talking about making it illegal or prohibiting a municipality from reducing the number of units of social housing, are you talking about requiring them to retain

what's public in the public sector, or are you prepared to accommodate those like perhaps some of the advisers to Mayor Ford who would say, "Well, heck, maybe the private sector can do it better. We can provide rent vouchers and any number of things"? What are you saying in recommendation number 2?

**Ms. Lee McKenna:** If there are—and there is talk here in Toronto from the mayor's office, indeed, that there are a number of buildings that are designated for social housing. What we would like to see is a change in legislation so that municipalities cannot reduce the overall current housing stock, so that there is always to be an upward trajectory of the creation and building of new housing stock. What that would look like in the details is not entirely clear to me, but it's that there is never a reduction of housing stock.

**Mr. Peter Kormos:** Okay, fair enough. Thank you kindly. I appreciate it.

**Mr. Mike Colle:** I have a question.

**Mr. Peter Kormos:** Sure, use the rest of my time, Mr. Colle.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Colle.

**Mr. Mike Colle:** Therefore, you wouldn't oppose selling off some of the existing housing stock?

**Ms. Lee McKenna:** I think that it's whatever is required to maintain social housing stock at a particular level, that it is always an upward trajectory, not a loss. I'm not sure exactly what the details of that legislation might look like.

But there are pieces of social housing here in Toronto that are lying empty right now and being left derelict. The solution is not to sell them, thereby reducing the housing stock, but rather perhaps to ensure that there is other housing stock that is purchased or built that can perhaps make up for it, so perhaps a \$2-million building in the Beaches that really could be better used in maintaining and even increasing the housing stock.

**Mr. Mike Colle:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. McKenna, for your presentation.

That's the final presentation of the day, so this committee stands adjourned until next Thursday, March 31, at 9 a.m. Thank you.

*The committee adjourned at 1701.*











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Second Session, 39<sup>th</sup> Parliament

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Deuxième session, 39<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Thursday 31 March 2011

**Journal  
des débats  
(Hansard)**

Jeudi 31 mars 2011

**Standing Committee on  
Justice Policy**

Strong Communities through  
Affordable Housing Act, 2011

**Comité permanent  
de la justice**

Loi de 2011 favorisant  
des collectivités fortes  
grâce au logement abordable

Chair: Lorenzo Berardinetti  
Clerk: Trevor Day

Président : Lorenzo Berardinetti  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 31 March 2011

Jeudi 31 mars 2011

*The committee met at 0900 in committee room 1.*STRONG COMMUNITIES THROUGH  
AFFORDABLE HOUSING ACT, 2011LOI DE 2011 FAVORISANT  
DES COLLECTIVITÉS FORTES  
GRÂCE AU LOGEMENT ABORDABLE

Consideration of Bill 140, An Act to enact the Housing Services Act, 2011, repeal the Social Housing Reform Act, 2000 and make complementary and other amendments to other Acts / Projet de loi 140, Loi édictant la Loi de 2011 sur les services de logement, abrogeant la Loi de 2000 sur la réforme du logement social et apportant des modifications corrélatives et autres à d'autres lois.

**The Chair (Mr. Lorenzo Berardinetti):** Good morning to all. We're going to start the Standing Committee on Justice Policy. We have a busy morning here. We're not going to operate by that clock there, because I think it's off by a bit. It's 9 o'clock on this clock here.

ADVOCACY CENTRE  
FOR TENANTS ONTARIO

**The Chair (Mr. Lorenzo Berardinetti):** It's 15 minutes per deputation, and we're going to start with the first deputation of the morning, which is the Advocacy Centre for Tenants Ontario. If you could please come forward, you can sit right there. There's a microphone there, where that little red light just came on. Welcome. Good morning. If you could identify who you are for the record, and then you have up to 15 minutes to present. If you finish earlier than the 15 minutes, we'll use that time for questions from the committee members.

Once again, good morning.

**Mr. Kenneth Hale:** Thank you very much. Good morning, Mr. Chairman and members of the committee. My name is Kenneth Hale. I'm the legal director of the Advocacy Centre for Tenants Ontario. I'm here with Mary Todorow, who works for ACTO as well. She's the—

**Ms. Mary Todorow:** Research and policy analyst.

**Mr. Kenneth Hale:** The research and policy analyst.

I'm here to speak today on behalf of the clients of the community legal clinics of Ontario, low-income tenants and people without homes. These are the people who live

in social housing or who are on the ever-growing waiting lists for social housing, in search of a secure home.

For the last three years, we've been working with four housing ministers and dozens of community partners on the long-term affordable housing strategy. In all that time, one message came through at every one of the many meetings that we went to: The long-term affordable housing strategy must include a commitment to build affordable housing. That's what's really missing in this bill.

We heard the finance minister yesterday loud and clear, and we understand that committing provincial tax dollars to a new housing program is not a priority for the government at this time. They're waiting for the federal government to step up to the plate, if and when that ever happens, and they're not prepared to go it alone. So, rather than focus on what's not in the bill, I think we'd like to look at what is in the bill and take the opportunity to encourage this committee and the Legislature to address the concerns of low-income tenants and homeless people and make some improvements to Bill 140 that will effectively address those concerns.

Our first concern is security. ACTO and the tenants we represent strongly support community-based delivery of housing services, as set out in section 1 of the proposed Housing Services Act. But "community-based" doesn't mean privately owned and run on a for-profit basis.

Recently, there have been suggestions that the Toronto Community Housing Corporation—that's the largest provider of community-based housing in Canada—might be sold off or turned over to private management because of some inappropriate business dealings by its staff. This has left a lot of the people who live in TCHC feeling insecure about their future.

Bill 140's provisions are inadequate to alleviate those fears. It grants municipalities new power to sell off public assets that the people of Ontario have paid for. It removes the vital provincial oversight that could prevent imprudent sales of the assets of TCHC or other local housing corporations. It puts at risk Ontario taxpayers' investment in homes for disadvantaged people that is now worth \$40 billion, according to the provincial auditor, and in doing so it puts the half-million tenants of social housing at risk.

The bill must explicitly ban the selling-off of social housing by changing the proposed powers of service



managers and local housing corporations. Any action that would reduce the number of units of each unit size in the social housing portfolio should be prohibited. It should be made a matter of provincial interest that existing social housing be owned and managed on a non-profit basis. As the tenants of TCHC told Toronto city council, tenants are not for sale; their homes are not for sale.

You have the opportunity now to make the changes to this bill that will provide the tenants and taxpayers with the security that they deserve.

Our second concern is about fair decision-making. The system by which social housing landlords make decisions, especially those decisions about rent subsidies, has been a concern of tenants since the Social Housing Reform Act was put into place in 2000. The lack of an independent review of these decisions leaves tenants feeling that they're treated unfairly and that their lives can be turned upside down by arbitrary bureaucratic choices. Bill 140 recognizes that this is a concern. It makes a system of decision review a requirement for municipalities and DSSABs. However, there's no requirement that the system be independent from the original decision-maker.

The city of Ottawa, with help from ACTO and others, has established a review process that achieves this independence while being transparent, fair and effective. Review requests by tenants and people applying for housing are decided by a three-person panel made up of an employee of a housing provider, a housing advocate, and an impartial employee of the municipality or DSSAB. Ottawa's evaluation report on this process was very thorough and very favourable, and this is the model that should be enshrined in law across Ontario. We note that social housing providers are demanding that decisions that affect their rights and privileges should be subject to an accessible, fair and independent review, and we believe that their tenants deserve the same.

Fairness also demands that the Landlord and Tenant Board should have the power to determine if a rent that's set under the Housing Services Act is correct before they order an eviction of someone for not paying that rent. In 2009, an elderly long-term tenant of social housing named Al Gosling suffered a tragic death after being evicted from social housing by the Landlord and Tenant Board. Former Chief Justice Patrick LeSage carried out an independent review of Mr. Gosling's eviction and death. Among his conclusions was a recommendation for a change to the Residential Tenancies Act that would help prevent a repeat of this tragedy. This change would allow the Landlord and Tenant Board to determine if social housing rent decisions were correct in the context of an eviction application. We don't know why this recommendation wasn't taken up by the government in proposing this bill, but we ask the committee to correct this oversight.

Bill 140 proposes that section 203 be changed so that its wording conforms with the design of the new legislation. We also ask the committee to bring the substance of this section into conformance with the provincial inter-

est in achieving positive outcomes for individuals and families. Take this small step to prevent unfair evictions that can result in misery and even death.

Our third concern is about inclusion. Social housing in Ontario has suffered from being seen as "apart from" as opposed to "a part of" our communities. While we believe that government leadership and public investment are crucial to a long-term affordable housing strategy, a permanent stock of affordable housing must also be created by private builders as part of building new residential communities. To make this happen, Bill 140 has to give municipalities the power to adopt mandatory inclusionary housing policies. These policies can balance a local community's need for affordable housing with a fair return for builders.

Inclusionary housing policies require that a certain percentage of new units be affordable to households with low and moderate incomes. Each municipality would have a choice as to whether to adopt such policies or to meet the objectives of their housing and homelessness plan in other ways. The affordable units could be acquired or operated by new or existing social housing providers, according to local needs. These policies will be an effective planning tool to help meet the provincial interest in allowing for a range of housing options to meet a broad range of needs. These policies could also combat the "not in my backyard" syndrome as affordable housing becomes a normal part of any new development.

This enabling legislation was previously the subject of a private member's bill by the member from Parkdale-High Park. It received support from MPPs from all parties at second reading but has gone no further. The Minister of Finance told the Legislature that his government supported inclusionary housing and wanted to do it right. Now is your chance to do it right.

Our fourth concern is about opportunity, and I think you'll hear from a number of other speakers about this issue who maybe know a little bit more of the details than we do. But the idea of simplifying social housing rent calculation is really a welcome step towards giving social housing tenants the opportunity to get ahead. When most tenants are only required to declare change in their income once a year, they can benefit from increasing their earnings and pursuing other forms of income.

**0910**

But even with this change, the current rent calculation rules do not work for a single person receiving ODSP. Their rent calculation changes from a flat-rate rent to 30% of their income once they receive \$440 a month from any source outside ODSP. This change results in a dramatic rent increase. Nothing in Bill 140 will change this.

I know Mr. John Stapleton has been here talking to you about his paper, Zero Dollar Linda. I understand Zero Dollar Linda herself is going to come and speak to you. They talk about the impact of these rules on real people. If their income increases, they can be worse off because of these automatic rent increases. Their efforts to take advantage of opportunities to become self-reliant



leave them with nothing but more financial hardship. The bill should be amended to prevent this from happening.

A long-term solution has to be found to this problem as part of the social assistance review in making sure that rent subsidies work with other income support programs. But we don't want to wait for another go-round and another committee making a bunch of recommendations that go on to some other committee. We think this problem deserves action now, and the minister promised that this action would be dealt with when he introduced this bill.

Our fifth concern is about justice. We commend the good work that this government has done to improve access to justice for tenants since coming into office in 2003. Replacing the Tenant Protection Act with the Residential Tenancies Act and enacting the Adjudicative Tribunals Accountability, Governance and Appointments Act demonstrated a commitment to justice and justice over efficiency.

But Bill 140 proposes to undermine this good work. It would allow the Landlord and Tenant Board to appoint employees to take over the powers of board members to hold hearings and issue orders in any circumstances where the board's management saw fit. Landlord and Tenant Board members are appointed by the cabinet through a mandatory, competitive, merit-based process. Their appointments are subject to the approval of a standing committee of this Legislature. The decisions they make can have a profound impact on individuals and families. There should be direct accountability for the quality of those decisions.

The minister apparently wants to dumb down this important decision-making power and speed up the eviction process by tacking on this proposal to the end of this bill, which is supposed to be a bill about social housing. This is in direct conflict with the lofty statements of provincial interest that are in section 4 of the Housing Services Act.

Second-rate justice and quick evictions do not achieve positive outcomes for individuals and families. They do not address the need to first house individuals and families. If this committee supports those provincial interests, then dispensing justice to landlords and tenants should be left to qualified adjudicators.

A more detailed statement of our position and our actual proposals for the amendments that would meet these concerns are included in our written submission, and we thank you for giving us the opportunity to come and speak.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Hale. We have about two minutes, so we'll start with the opposition party. Mrs. Elliott or Mrs. Savoline?

**Mrs. Joyce Savoline:** I would just like to thank you for being here today and for taking the time to present to us. This is an extremely important bill that will have some very long-lasting and riveting effects for the people who have to live with these rules. I thank you for coming and also for taking the time to visit us individually as MPPs to let us know what's happening with your organization. Thank you.

**Mr. Kenneth Hale:** Thank you for the opportunity.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move to the NDP. Mr. Prue.

**Mr. Michael Prue:** A couple of things. I thank you for your advocacy in not allowing social housing to be sold to the private sector. This is one of the most horrific ideas that came out of the last municipal election here in Toronto. But I was fascinated by the Ottawa experience. When did they develop the three-person board to review new social housing applicants? I had not heard of this before today.

**Mr. Kenneth Hale:** It's just over the last couple of years. There were discussions about the regulations of the SHRA about a province-wide system. Those discussions came to some recommendations. The government decided not to adopt those recommendations, but the city of Ottawa decided to take it up on their own to do a pilot project of an internal review system with these three-person panels.

It seems to have been working quite well. It's well documented. We could provide you with further information about the details of it, but I think it's something that the city of Ottawa could be quite proud of. I think it has also generally improved the quality of decision-making, because people know, when they make a decision, that somebody is going to be looking over their shoulder, so they take a little more care. Maybe the appeal process hasn't been needed to be accessed as much as people thought it would because the decision-making quality is improving, but it's there when there are conflicts. A lot of times—

**The Chair (Mr. Lorenzo Berardinetti):** I have to cut you off, because we're going to have to move on.

Any questions from the Liberal Party? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for bringing these issues to our attention. I was particularly interested in the whole concern around the ODSP.

I wonder if you could elaborate a little bit on rent geared to income. What difference is that really going to make?

**Mr. Kenneth Hale:** The difference it makes is that when your income—it's not that hard these days. Four hundred and forty dollars a month is maybe 10 hours a week at minimum wage. So if somebody on ODSP makes \$440 a month, suddenly the rent goes from the flat rate of around \$130 to 30% of their income, which is a huge jump that makes it almost not worthwhile to go out and work. One of the objectives of the ODSP is supposed to be, for those people who are able, to get back into the workforce and join the mainstream of society, and not be left out as a recipient in some kind of financial ghetto. This doesn't make that happen.

Our idea is to raise the amount that people can earn before they have to go on the geared-to-income system, so that it's not a steep wall there. I think some other people could talk to you about this in more detail.

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry to have to cut you off, but thank you for your presentation this morning. I just want to give the others a chance to present as well. Thank you.



## THE DREAM TEAM

**The Chair (Mr. Lorenzo Berardinetti):** Our next deputation is The Dream Team: Linda Chamberlain. Good morning and welcome.

**Ms. Linda Chamberlain:** Good morning. Thank you very much for this opportunity to talk to you about Bill 140. I'd like to begin by sharing some of my experiences with you in order to put a human face on a housing policy that affects low-income people.

I was born in Saint John, New Brunswick, and at the age of five my mother and I went out to get my father for dinner and we found him in the barn with an axe through his head. They called it a freak accident. He died on Christmas Day. Then we moved to the city with my mother's parents, and they both died, of cancer and pneumonia.

My mother took me out of school when I was in grade 2 to look after my two younger sisters while she went to work. Then I came to Toronto, and for over 30 years I was on the street and in the hospital for my mental health issues and addiction, until 15 years ago, when I got my first one-bedroom. I couldn't tell you how wonderful it was to have my own room and my own washroom. It was unbelievable. I can't tell you how it changed my life.

I won the Courage to Come Back Award in 2002 from CAMH and then I won the Tenant Achievement Recognition Award from the Ontario Non-Profit Housing Association, and I also won the Ted Tremain Award at CAMH for staff excellence. I mean, it doesn't get any better than that.

If the government is serious about a housing program that puts people first, the new Housing Services Act must be changed in the following ways.

Firstly, we must prevent the privatization and sell-off of social housing, making it illegal for cities to reduce the number of social housing units. This is important for several reasons. For one thing, we need more housing for people who would otherwise be homeless and unable to get on with their lives. The government has failed to make any new investments in long-term affordable housing strategies. The least we can do is maintain the social housing that we currently have.

Furthermore, we need to recognize that affordable housing strengthens communities and people who make up our communities. My own supportive housing building is an example of this. We have a garden in the back where we grow tomatoes and lettuce. We have a food program to provide healthy food. Because my neighbourhood has supportive housing units, individuals living in my community who fall ill and become unable to work can remain near their family and friends in their own community.

Another thing the Housing Services Act must do is restrict punitive rent-geared-to-income rules. The Housing Services Act should protect tenants on social assistance from rapid rent hikes if their income rises.

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Working is good for people. When I got my first paycheque, I thought I'd died and gone to heaven. The

confidence and self-esteem—I can't tell you. We all want to work to be able to feel good about ourselves and become financially self-sufficient. By raising the rent when people are on their way to building a better life for themselves, we're sending them back to poverty. I'm an example of this: I had to quit my job because I couldn't afford my rent. Half of my paycheque was being clawed back by ODSP, and what I had left wasn't enough to cover my rent, which had been increased to \$650. I got an eviction notice, I got cut off ODSP, and I had to go back on medication, and I want to ensure that policies will prevent this from happening to others.

Bill 140 has the potential to affect countless people like me, who are affected by illness and poverty. I therefore strongly recommend that Bill 140 include a framework that protects people against the sell-off of social housing and against the punitive rent-geared-to-income rules.

When I was working, I was 61 going on 20. Now that I have no job, I'm 61 going on 92.

Thank you for considering my comments.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about nine minutes; three per party. We'll start this time with the NDP. Mr. Prue.

**Mr. Michael Prue:** Ms. Chamberlain, you are the same woman I read about in Carol Goar's column in the paper yesterday or the day before that?

**Ms. Linda Chamberlain:** Yes.

**Mr. Michael Prue:** I think the column said an enormous amount of stuff.

You are right in talking about how punitive—can you give us the exact amounts: how much you earned, and then how much your rent went up, just so all members can—

**Ms. Linda Chamberlain:** I can break it down like this: If I was on ODSP and getting the special diet, I'd get \$1,200; my rent is \$109, apart from my bills. It's called work: I make \$1,200. ODSP gives me \$100 to work, but ODSP takes half of that \$1,200. They take \$600. My housing takes the other \$650, off the gross and not the net. My housing didn't recognize that ODSP only took half, so they should only make me pay half of the \$600. But they didn't; they made me pay half of the \$1,200. So they took half, and I was working for nothing. I got in debt and had to quit. I almost would have been back on the streets.

I worked hard all my life to get as far as I've come, and having housing—how important that was to change my life. Can you imagine me being back on the street again? I'm too old to go back on the street. So I had to quit my job and then stay home and grow tomatoes.

**Mr. Michael Prue:** If you earned \$500 a month and the government clawed back half of it, would you agree to pay some of that \$250 you had left towards the rent—or do you think that there should be none?

**Ms. Linda Chamberlain:** Of course you want to pay some back, but I want to make some money too. I want to be able to live and buy good shampoo and buy some clothes and lipstick. You can't buy that. I have to go to a



food bank just to get soap and certain things. I have to go to a second-hand store. I got this jacket at a second-hand store. It's kind of cute, isn't it? But I'd like to buy better stuff. I'd like to wear my own clothes for a change and not be a second-hand Rose.

**Mr. Michael Prue:** You also talked about not privatizing social housing. What would it mean to you if they sold your housing to the highest bidder and had somebody come in and take over your housing?

**Ms. Linda Chamberlain:** It would mean I'd have to start a squat city, like they did a while ago. We'd have to start that and go out in the bush.

**The Chair (Mr. Lorenzo Berardinetti):** Are there any questions from the Liberal Party?

**Mrs. Donna H. Cansfield:** Yes. First of all, thank you for coming and thank you for sharing. It's really important to hear from, as I always say, where the rubber hits the road: from the folks on the streets who are trying to make a difference in their lives.

I read that you're the founder of People and Pets.

**Ms. Linda Chamberlain:** Yes.

**Mrs. Donna H. Cansfield:** Pets are so important for folks with mental health issues, and it's fantastic that you do this. Thank you.

**Ms. Linda Chamberlain:** I've housed 3,086 cats and 15 dogs. These animals were going to be put down if I didn't look after them and have foster parents look after them. It's a free service. I get free cat food. You don't have to have rocket science to do this here. I have people from all over the place call me, and what a wonderful thing when people come out and they get their pet back, because when you're in housing, if you don't have someone looking after your pet, they actually put it down. So thank you very much.

**Mrs. Donna H. Cansfield:** Oh, do they? I didn't realize that, so thank you very much, because this is so important to someone's life.

**Ms. Linda Chamberlain:** I'm going to be in Reader's Digest in June. Buy a copy.

**Mrs. Donna H. Cansfield:** Okay, you're on.

I wanted to chat with you a little bit about the issue that you and others have raised about the ODSP and the clawbacks. Presumably, that came under the Social Housing Reform Act of a few years ago. There are always times when you have to review and really look at this. So you would say that in fact has been really punitive and that there hasn't been an opportunity for you, as you say, to sort of get ahead, because every time you start to get ahead, you get pushed back.

**Ms. Linda Chamberlain:** Yes.

**Mrs. Donna H. Cansfield:** And it's actually those rules that force you to do that. You're suggesting it's time to rethink those rules. So as we look to rent geared to income, we must also look to the whole issue around ODSP and the rent.

**Ms. Linda Chamberlain:** Yes.

**Mrs. Donna H. Cansfield:** I want to say thank you for that. It's one of those things that, as I said, has been

part of the old Social Housing Reform Act, and maybe it's time that we really give this a genuine look.

Thank you for bringing forward your suggestions. Thank you for coming and, in particular, thank you for the work that you do. I see there are three of them. You're a founding member of The Dream Team and a peer support worker for people with diabetes and mental health. That says a great deal about you.

**Ms. Linda Chamberlain:** Thank you. And I do stand-up comedy, too, but I won't do it today.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Conservative Party. Ms. Elliott?

**Mrs. Christine Elliott:** I'd also like to thank you, Ms. Chamberlain, for coming forward this morning. As you say, it really is important for us to put a human face to some of the issues that we're dealing with here.

I did have the opportunity to serve on the Select Committee on Mental Health and Addictions, and a lot of the issues that you're raising were certainly relevant to that as well: the need for proper housing, the need to be supported. The work that you're doing as a peer support worker is so valuable and so important. Thank you so much for that.

I think that the issues around having a job and having the dignity of a job and what that does to your self-confidence is something that is more important than I think a lot of us have realized before. We really need to look hard at that through the whole review of the social assistance rules and so on, and I have no doubt that Mrs. Cansfield and the other members of the government are going to be relaying that information back to the minister. That will serve two purposes—not just for the review of this legislation but for the entire social assistance review as well. So thank you.

**Ms. Linda Chamberlain:** Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Chamberlain, for coming this morning.

Members of the committee, I'm going to call out the next deputant. We don't know if they're here or not. Is there anyone here from RJD Realty? No one's here from RJD Realty. Stoneworks Cooperative Homes? Nobody here. Is Catherine Wilkinson here? Not here. Okay. Miguel Avila from the Asociación de Arrendatarios Latino? Any presenter?

Yes, Mrs. Cansfield?

**Mrs. Donna H. Cansfield:** Since these folks are not here, could I suggest we just take a 10-minute break until some of them come?

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Don't go too far. Let's say—

**Mrs. Donna H. Cansfield:** I'm not suggesting we leave; I'm just saying we take a break.

**The Chair (Mr. Lorenzo Berardinetti):** All right, that's fine. Right now my clock says 9:29 or 9:30. Let's come back maybe at 9:35?

**Mr. Mike Colle:** The official clock still hasn't been fixed.

**The Chair (Mr. Lorenzo Berardinetti):** It's a bit off.



**Mr. Mike Colle:** It has been one month now. If we could get the clock committee to look at that—

**Mr. Bas Balkissoon:** That's how fast government moves.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put that on the record, then, and see who's responsible for that clock.

We'll take a five-minute recess and we'll see if any of the four other presenters for this morning show up. Okay? So we're recessed for five minutes.

*The committee recessed from 0929 to 0951.*

**The Chair (Mr. Lorenzo Berardinetti):** We'll call the meeting back to order.

Just to let the members of committee know, the next three presenters that were scheduled, we don't have here. We don't have the 9:30, the 9:45, the 10 o'clock or the 10:15 presenters here.

But I'm just going to ask committee: There are three gentlemen present today from the Margaret Laurence Housing Co-op. They're not on our list today but they want to have some time, 15 minutes, to speak. I just need to know if everyone's okay with that.

**Mr. Michael Prue:** Could I ask, because it's five to 10—I've got eight minutes to 10. If the 10 o'clock and 10:15 show up, I want to make sure they're heard. I don't have any problem with eight minutes, but I'm questioning 15, because that is not available in the afternoon. So eight minutes, absolutely.

**The Chair (Mr. Lorenzo Berardinetti):** Okay, is that fine? Yes?

**Mrs. Donna H. Cansfield:** I'd just leave it to the discretion of the Chair. If the others come in, then make the adjustment. If not, please go ahead.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** All right. Trevor and I will keep an eye on who comes in here.

#### MARGARET LAURENCE HOUSING CO-OPERATIVE

**The Chair (Mr. Lorenzo Berardinetti):** Does everyone have a copy of the submission here? All right, so we'll start.

**Mr. David Moore:** We're from Margaret Laurence Housing Co-op. We're in downtown—sorry?

**The Chair (Mr. Lorenzo Berardinetti):** If you could just indicate who you are, and the other gentlemen as well, for the record, as everything is put into Hansard.

**Mr. David Moore:** We're David and Steve, and we are members there, tenants. This is our manager, Ralph West.

I'm just going to read it exactly. It's two pages, so I'll try and do it as quickly as possible.

**Dear committee members:** The membership of Margaret Laurence Housing Co-operative completely endorses the arguments made by the Co-operative Housing Federation's representatives with respect to Bill 140.

In particular, our housing co-op would like to underline the need to preserve the safeguards which currently

exist in the language and terms of the Social Housing Reform Act against undue or unreasonable interference by a service manager in the operations of a housing provider, up to and including the service manager's assuming complete control of the assets of the housing provider.

We believe that our housing co-operative provides a good illustration for you to consider in your deliberations on the issues which have been raised by our representatives from CHF.

Margaret Laurence Co-op has an 18-year history of good management. We have had significant operating surpluses virtually every year and have taken initiatives in finding sources of revenue beyond what is provided to us by our rental income and the subsidies from the service manager. Despite our history of very responsible financial management and our current accumulated surplus, we are looking ahead to a period of inevitable financial difficulties because the funding formula governing our capital reserves underfunds those reserves by well over \$200,000 every year. This means that we must delay needed capital work and that we must cut our operating expenditures wherever possible to accumulate funds to compensate for this problem. These choices in turn will lead to serious degradation of the physical assets of the co-op and eventually to vacancy losses and operating deficits as we fight to keep our apartments filled. None of this will be the fault of the co-op and yet, as our financial circumstances worsen, our service manager will be in a position, under Bill 140, to determine that we have met the criteria of a triggering event and initiate a process which could eventually lead to completely unnecessary interference in our operations and ultimately to rationalizing our co-op out of existence.

This matters. Margaret Laurence Housing Co-op is more than just a building which serves a social need for housing low-income members of society. Our co-op was founded to provide a sanctuary for persons living with HIV/AIDS, people who are subject to ongoing discrimination in the general community, people who are often evicted when their landlord learns of their health issues. Margaret Laurence has provided a community of mutual support and understanding from our members. Our internal processes have evolved in an effort to better serve this community. Our elected board of directors is sensitive to issues which are specific to this community. Our staff members are as well.

Our co-op has served not only our own members but also the greater community by providing a place offering not just shelter but opportunity for mutual self-help within a corporate structure only housing co-operatives can offer.

Margaret Laurence Co-op is far from unique. There are a great many other co-ops serving communities of persons with special needs and there are even more private, non-profit housing projects which do the same. In addition, all housing co-ops provide their members with the opportunity to share in the management of their community, guaranteeing not only their empowerment,



but a sense of security in their life which is not available anywhere else.

Each unique housing project is much more than social housing in the worst sense of warehousing the poor. We offer people a secure home and a supportive community which wouldn't exist without the independent corporate existence we currently have.

The remedies which will assist us in dealing with the problems we encounter with our finances and with properly maintaining our physical assets are very different than those which are both implicit and explicit in Bill 140.

To penalize and threaten housing providers—as Bill 140 makes all too possible—for failures in the design of funding formulas or for temporary financial reversals over which we have no control is a step backwards in social policy. We hope that this will become evident to you, if it has not already.

We trust that you will listen to our voices, those of other housing providers and our representatives and that you will make the needed amendments to Bill 140 before it becomes law. We thank you for your thorough consideration of the issues at stake in the decisions your committee will be making.

**The Chair (Mr. Lorenzo Berardinetti):** With that, our next two presenters have shown up, the 10 o'clock and the 10:15. Thank you very much for your presentation today.

MS CATHERINE WILKINSON

**The Chair (Mr. Lorenzo Berardinetti):** We'll go on with our 10 o'clock presenter. It's Catherine Wilkinson. Good morning and welcome to committee.

**Ms. Catherine Wilkinson:** Good morning.

**The Chair (Mr. Lorenzo Berardinetti):** You have up to 15 minutes to speak. If you finish earlier, we'll just get questions from the committee.

**Ms. Catherine Wilkinson:** Okay. Great. Good morning again.

Today, I stand here before the government body that downloaded social housing on to the city of Toronto in 2001.

Clearly, little thought was given to the state of disrepair of that housing stock and even less to the people who lived within those four walls.

With stimulus funding from all levels of government, great strides have been made in improving some of the social housing stock and improving the quality of life for tenants. For this we give thanks. While housing providers ran out of money, they did not run out of people who desperately needed a home.

Supportive housing with social housing providers: It is well known that Toronto Community Housing, as a social housing provider, cannot meet the existing needs of approximately 9,000 vulnerable tenants it already houses. So yes, at the end of the day, we can say we housed them, and that's all we did.

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Ask the minister to provide a percentage of supportive housing funding based on the needs of vulnerable citizens living in social housing to ensure these citizens receive the critical services they need right now. We all know that without access to supports, these citizens are destined to fail and to become homeless again. It's a vicious cycle. We are playing Russian roulette with people's lives, and it has to stop.

With regard to 174 and the disclosure of personal information, while we understand the need to disclose personal information in the most extreme of circumstances, careful language should specify under what conditions housing providers can release personal information, and to whom and for what purpose.

Overhoused versus right-sized: Develop a mechanism to expedite the transfer of overhoused tenants. Set specific timelines in which tenants must become right-sized to accommodate the needs of others on the wait-list.

We need to meet the needs of our seniors. Consideration needs to be given to our aging population, whose fixed incomes give them little choice in where to live beyond social housing. This will increase substantially in the next 10 years. Will Ontario be ready to face that reality? Demand that more affordable housing be built to meet the needs of seniors.

Social housing units—built forms: Require municipalities to incorporate social housing into all built forms of housing to achieve real mixed-income communities.

Discretionary decisions with respect to the priority list: Ensure service managers direct housing providers to make timely discretionary decisions around transfers specifically for seniors and tenants with disabilities as an emergency priority transfer, to improve their quality of life and permit them to receive much-needed supports.

The conversion of bachelor units has been an ongoing conversation for social housing providers. We ask the minister to approve the conversion of bachelor units for social housing providers into multiple-bedroom units, and to waive penalties for taking this initiative. This will shorten the wait time for 142,000 people waiting for a proper-sized home to become available. This will also reduce the backlog of vacancies where bachelor units are difficult, if not impossible, to rent.

Encouraging employment: Social housing providers contribute to community economic development by forming partnerships that are changing people's lives. Recognize, and do not penalize, residents living in social housing when they find employment by giving them a one-year grace period to build a foundation for their future before increasing their rent.

Affordable housing for whom? Social housing market rent arrears are spiralling out of control, and this is self-imposed by housing providers. Regulate market rates for social housing providers, not based on the low end of CMHC or geography, but on affordability. The timing of this is critical to ensure people stay housed and to not increase homelessness. This will also reduce undue financial hardship on social housing providers in lost



revenues, legal fees, vacancy rates and the cost to prepare units for new tenants. Ontario should be working to promote successful tenancies.

Housing and homelessness plan: Service managers should be required to conduct an assessment of existing housing stock with a long-term plan to address capital repairs today and in the years ahead. Without funding partners from other levels of government, this will not be possible.

Sporadic “use it or lose it” stimulus funding is merely a band-aid and not a long-term solution. Restore a legislative requirement to ensure service managers seek consent from the Minister of Municipal Affairs and Housing before arbitrarily disposing of existing housing stock, creating unnecessary homelessness, and to ensure social housing will be there when Ontarians need it most. There are specific expectations of a social housing landlord that go above and beyond those for a residential landlord and which are vital to creating and sustaining healthy, vibrant, connected communities.

Selling off social housing for short-term gains, disrupting and displacing thousands of residents in the process, will surely lead to increased homelessness and the creation of even more priority neighbourhoods. How many human lives will be sacrificed for the almighty buck?

We ask the provincial government to provide a safety net for the 164,000 tenants of Toronto Community Housing. Do not permit the city of Toronto to privatize, in whole or in part, the place we call home, the vital supports that only social housing landlords can provide.

We have done the research. Statistics clearly indicate a housing crisis in this province. Please don't turn your backs on Ontarians. It is within your power to find a real solution.

Ontario needs a long-term, sustainable funding plan that provides stimulus programs to offset costs of repairing, upgrading and refurbishing existing housing stock and to establish annual targets for the creation of new, affordable housing.

Did you ever have a conversation with a homeless person about the economy? Did you ask them where they came from or how they came to be homeless? These are difficult times for Ontarians, struggling to make ends meet. Some hold multiple jobs or are forced to go to food banks when the majority of their income goes to rent.

Though this government downloaded social housing on to municipalities, it cannot ignore the fact that this is not working out.

How does the Housing Services Act put people first—first to become homeless when municipalities sell their homes?

There's a common real estate term used in determining value of properties: “It's cheaper to replace them than to repair them.” This does not hold true for human beings. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have just under six minutes. We'll start with the Liberal Party, with two minutes for each party. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you, Catherine. It's so nice to see you, and thank you for the work that you've been doing and have done in the past and that I know you will continue to do in the future in terms of social housing.

It's one of the best papers I've seen because you've actually articulated and identified where you could see some of the reviews and changes occurring. Some of it actually goes over the social assistance review, so presumably you're going to put something together for that review as well when the time is there, and others obviously belong with us.

One of the questions I have for you is—I was surprised, and I didn't know—do the service managers not have an assessment now of their existing stock?

**Ms. Catherine Wilkinson:** I'm sure they do some sort of an audit in terms of the capital repairs required, but of course the needs outweigh the funding they get to make those repairs. So how do we get at that? How do we really address that? It was broken when you had it, it was broken when we got it, and it hasn't gotten much better. It's gotten a little bit better, but you hear it every day on the news and you see it every day in a newspaper: What are we going to do about housing in this province?

**Mrs. Donna H. Cansfield:** The second question is—when I was in Ottawa, they addressed the same issue around the bachelors. They actually had a lot of empty bachelor units. Can you help me understand how that policy works, that they're penalized by doing anything other than putting in an individual? Unfortunately, homelessness has changed into families, so the bachelors are not as required. Can you help me understand that?

**Ms. Catherine Wilkinson:** In Toronto Community Housing, there's currently 11,500 vacant bachelor units that people simply do not want or they have families and a bachelor unit does not meet that need. We need consent from the minister to convert those into multiple-bedroom units.

**Mrs. Donna H. Cansfield:** Thanks, Catherine.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the Conservative Party. Ms. Elliott.

**Mrs. Christine Elliott:** Thank you very much, Ms. Wilkinson, for coming today to speak about the bill and some of the issues around it. One of the issues that I wanted to ask you about was the discretionary list around the transfers for seniors and people with disabilities. Could you just elaborate a bit on the problems that exist around that currently, please?

**Ms. Catherine Wilkinson:** There is language which does provide the housing providers to do some discretionary decision-making based on transfers, but it has been my experience, and of others, that when it comes to people with disabilities and seniors, it doesn't matter how many medical letters you have and whatnot, that list is almost as high as the actual waiting list itself.

But you have people who are disabled—say they've had their legs amputated and they're on the fourth floor of a building and the elevator's in disrepair. We actually hold that person hostage because they cannot get out of



their unit. That's not right. When a unit becomes available on the first floor, that person should be given priority. They shouldn't have to wait 10 years to qualify under the other waiting list.

**Mrs. Christine Elliott:** There's a need to just make practical decisions based on a person's disability and accessibility to their unit and practical use of it?

**Ms. Catherine Wilkinson:** Yes, but we need to make sure that housing providers do it. It's already in the language. It's not happening.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the NDP. Mr. Prue.

**Mr. Michael Prue:** Thank you, Catherine, for everything you do. For the members who may not be aware, Catherine was one of the two elected people on Toronto city housing who was unceremoniously and, I think, illegally removed from her office. Quite frankly, that's my opinion, so just to tell you that.

1010

The conversion of bachelor units—it has been my experience, as a mayor, as a councillor, as an MPP, that these units are very hard to fill. Although there are lots of them, I've never had anyone come to my office and request a bachelor unit. How much would it cost to knock two bachelor units together, as an example, to make them into a two-bedroom unit that could be used by a family? Has anybody costed this out?

**Ms. Catherine Wilkinson:** Not that they've brought forward to the board. I've identified it for the past three and a half years, sitting on the board of Toronto Community Housing. While we keep identifying this as an issue, I said that this year I'd like to know what our strategy is for addressing that. I get that it's an issue, but it's time we did something about it. Who do we need to go to to get consent to actually change this? It's time.

**Mr. Michael Prue:** You said there were 11,500 vacant bachelor units in Ontario?

**Ms. Catherine Wilkinson:** No, in Toronto Community Housing.

**Mr. Michael Prue:** In Toronto Community Housing. That nobody wants?

**Ms. Catherine Wilkinson:** They don't want them. If you look at the wait-lists, nobody has a requirement for a bachelor unit.

**Mr. Michael Prue:** That's what I said. I've never had anyone come in and ask for one of those.

**Mr. Mike Colle:** I have.

**Mr. Michael Prue:** Well, maybe you should send them over. There are 11,500 vacancies.

**The Chair (Mr. Lorenzo Berardinetti):** You have about 30 seconds.

**Mr. Michael Prue:** Okay. The last thing was the discretionary decisions. You've already spoken about that. How many such examples, having worked there, do you get of people with disabilities or seniors who require changes and who are forced to wait a long time? Is this huge, or is it—

**Ms. Catherine Wilkinson:** It would be literally in the thousands. I hear about many myself, but I also hear

about it as a city-wide issue. We need to make language to ensure that they get expedited and that we don't hold them hostage from living their lives.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

## ASOCIACIÓN DE ARRENDATARIOS LATINOAMERICANOS DE VIVIENDA SOCIAL DEL GTA

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the final presentation for this morning: Mr. Miguel Avila. Good morning. Welcome to the committee. You have up to 15 minutes to speak, and we'll ask you questions if you finish earlier. If you could just identify yourself for the record, we'll go forth from there.

**Mr. Miguel Avila:** My name is Miguel Avila. I'm a proud Latino-Canadian and a TCHC tenant. I'm here to speak on behalf of hundreds of Latino-Canadian members of the Asociación de Arrendatarios Latinoamericanos de Vivienda Social del GTA—translated: the Latin-American Tenant Association of Social Housing of the Greater Toronto Area—or AALVS for short. We are a group of Latinos working together to find common solutions to common problems. Our group represents members of the co-op sector, the not-for-profit housing and the TCHC communities.

I'm here to comment on Bill 140, the Strong Communities through Affordable Housing Act, which will replace the Social Housing Reform Act and introduce the new Housing Services Act. On November 29, 2010, the Ontario government introduced its long-awaited long-term affordable housing strategy. The government failed to make any new investments in affordable housing, but introduced Bill 140.

I believe that the new law does not do nearly enough. Instead, it loosens up the legislation to allow municipalities to sell off their social housing stock. It is an outrageous move by this government on the poor. Our homes are not for sale, period.

I strongly feel that my home, mi casa, is at risk of being privatized by a single stroke of a pencil by the current service manager, the city of Toronto. As you know, it's a major stakeholder of the TCHC. The selling off of the current stock to the highest bidder would mean hundreds of senior citizens, children and families finding themselves paying higher rent fees or facing mass evictions if privatization of the TCHC goes ahead. Can you imagine the kind of stress people are in these days, fearing the loss of their home?

This past Tuesday, March 29, 2011, Finance Minister Dwight Duncan delivered the Ontario budget, announcing \$129.9 billion, that draws praise and outrage—not a single investment in new social housing, not a penny, nada, nothing. Studies have shown that in Ontario, women, immigrants, Ontarians from racialized and aboriginal communities, and those with disabilities are disproportionately poor. We can barely put food on the table and pay the rent. While the employment rate is now



increasing, the largest increase is in part-time work, with these workers most likely having low-wage service jobs, unable to pay housing-market-rent prices.

I have some recommendations to this committee for your consideration. The new Housing Services Act must be changed to:

(1) Keep provincial supervision over social housing. Affordable housing strengthens the foundation of communities and is an important public asset. Unfortunately, the new bill removes the provincial permission that is currently required for any sale or transfer of social housing. We need checks and balances in our housing governance model to make sure that people's housing rights are not being violated at the municipal level. The municipality of Toronto has plans to sell off 22 units at the next meeting of the TCHC.

(2) Social housing should be owned and managed on a non-profit basis. Social housing is a complex social service that serves many vulnerable populations in our city, including new immigrants, disabled people and those suffering from addictions. Private sector housing cannot accommodate these needs. What is more, in an age of rising poverty and financial instability, the private sector will not prioritize the social over profit. As a result, legislation should make it illegal for municipalities to privatize and sell off social housing.

(3) Restrict punitive rent-geared-to-income rules. Tenants on social assistance who live in social housing should not be worse off if they find a job. Some groups suggest one week's pay for one month's rent. The Housing Services Act should protect tenants from rapid, unfair rent hikes if their income rises.

(4) Improve fairness for tenants. Tenants need an independent review process when disputing decisions made by housing providers, such as cancelling a rental subsidy. The people reviewing the decisions should not be the co-workers of the people who made them in the first place. The Housing Services Act should mandate the creation of an independent panel to consider these disputes.

(5) Introduce inclusionary housing. One of the fastest and fairest ways to create stable, equitably accessible, affordable housing is to ensure that it is built into any new development. The government needs to amend the Planning Act to allow municipalities to introduce inclusionary housing policies.

(6) Social housing providers need a fair appeals process. Under existing legislation, co-ops and non-profits have not had the ability to seek an independent review of municipal service manager actions or decisions that did not involve costly court proceedings. The Housing Services Act must introduce an independent, fair and transparent appeals process for housing providers.

Even with these changes, I believe that the Ontario government needs to meaningfully address the housing crisis by improving the long-term affordable housing strategy by introducing bold targets and timelines and funding for:

(1) New affordable housing units and repairs to run-down housing: Currently the state of good repair stands at \$300 million.

(2) A housing benefit and rent regulation to close the gap between low incomes and rising rents: The benefit would go far to help families struggling to pay the rent.

(3) Supports and services to help people access and maintain housing they can afford, and to ensure equitable, inclusive communities.

Thank you for considering my comments. I want to apologize that I didn't include appendix A, which is part of the agenda for the TCHC meeting for April 6, which deals with the sell-off of 22 units. I apologize. It was beyond my control to submit.

**The Chair (Mr. Lorenzo Berardinetti):** If you want to give that item to the committee clerk here, he will photocopy it and give it to all members of the committee.

**Mr. Miguel Avila:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** We have just over five minutes, and we'll try to go from party to party. We'll start first with the Conservative Party.

**Mrs. Christine Elliott:** I'd just like to thank you very much, Mr. Avila, for coming forward and presenting your positions to us. Many of the issues that you have dealt with, we have heard before. It's great to hear them from your perspective, and so we thank you very much for taking the time to be here with us today.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the NDP. Mr. Prue?

**Mr. Michael Prue:** I want to deal with the 22 units that the city of Toronto is attempting to sell off. Can you tell us where those units are located?

**Mr. Miguel Avila:** My belief is they're located in wards 31, 32, 27 and 30, on the east side of Toronto.

**Mr. Michael Prue:** These would be, then, the private houses that the city of Toronto owns. These would not be apartments or mixed-use. These would be private homes.

**Mr. Miguel Avila:** Yes, that's correct, homes.

**Mr. Michael Prue:** What does the city of Toronto plan to do with the money?

**Mr. Miguel Avila:** In brackets, they wanted to reinvest in improving the housing units all over the city. That's the plan.

**Mr. Michael Prue:** But you think that they ought not to do that.

**Mr. Miguel Avila:** I don't think so.

**Mr. Michael Prue:** All right. The second thing is: "Social housing should be owned and managed on a non-profit basis." You don't think that the private sector can accommodate these needs. Can you tell us why?

**Mr. Miguel Avila:** I speak with experience. I have a disability, and I don't think that the private sector will care for my disabilities. They will put profits first, large profit margins, instead of providing assistance. That is my personal opinion.

**Mr. Michael Prue:** Okay. I'm quite surprised that this government has not seen fit to introduce inclusionary housing. This wouldn't cost the government any money at all. You said you were disappointed in the budget yesterday on housing generally. Why do you think—maybe only the government can answer this—this wasn't



included? This would cost no money, and it would allow municipalities to build a lot of extra housing.

**Mr. Miguel Avila:** Well, I don't know what is in the minds of the government for not including any money for social housing. It was irresponsible of them not to do it. It will benefit the long waiting lists of Ontarians who are in need of housing right now. We are disappointed. Dalton McGuinty has to answer some questions to Ontarians.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for your presentation. Maybe I could just share some information. We actually have invested, since 2005, with the help of the federal government, \$2.5 billion into housing in this province. Annually, we put \$430 million into housing and homelessness. There's no question that there's always more work to do, but I do believe you've seen a commitment from this government when it comes to the issues around social housing.

We have included secondary suites, which is an extraordinary added bonus for a lot of folks who will be able to provide homes not only for themselves but for maybe members of their families or others.

So there are opportunities that are out there. Would we like to be able to do more? Of course we would. Given our times, that's maybe not as easily done as said.

We also know that we need a national strategy on housing. We've been working with the federal government to have them come to the table with something that actually works for both of us. Those discussions are productive and ongoing.

Like most things, sometimes it takes a bit of time, but it's not as if this is on our back burner; it's actually on our front burner. This is the first time that this piece of legislation has come forward with a long-term strategy actually looking at a very encompassing approach to dealing with housing in this province. You're right, it will take some time to do.

Some of the issues that you've identified, I'm pleased that you have, and I like the succinct way in which you presented them. I can assure you they will be taken under serious consideration.

I really appreciate you taking the time to comment and to speak to us here at the committee. I think we've all been taking notes furiously, Miguel, so thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Avila, for coming out this morning.

That completes our presentations for this morning. This committee is now recessed until 2 p.m., after routine proceedings.

*The committee recessed from 1024 to 1402.*

**The Chair (Mr. Lorenzo Berardinetti):** I'd like to call this meeting back to order. Just before we start, a quick note to the members of committee: You have in front of you a copy of the report on the sale of 22 single-family houses. This was from the last presenter from this morning. We photocopied it, and it has been distributed to all the members.

## PAPE ADOLESCENT RESOURCE CENTRE CHILDREN'S AID SOCIETY OF GUELPH AND WELLINGTON COUNTY

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation, from the Pape Adolescent Resource Centre and also the Guelph children's aid society. Welcome to the committee. Please state your names for the purposes of Hansard just before you speak. You have up to 15 minutes to speak. If you finish early, there will be questions from the committee.

**Ms. Michele Engelhart:** My name is Michele Engelhart. I want to speak to you about the housing issue for youth.

I came into care with the children's aid society when I was 15 years old. I had a positive experience, but my foster mom was going to move to a condo downtown, which was going to be very small for me to be with them. So I started the process of finding a place on my own. I had to ask a friend, because the market rent for a room at that point was \$546 a month. If I wanted a one-bedroom apartment, it was between \$600 to \$1,000.

The other issue I confronted was, I was too young. I was 17 years old and landlords asked for references. As I had lived with my foster parents before, I had no references from other housing.

Then I got in touch with Pape Adolescent Resource Centre. They helped with finding a job, finding housing. They actually had this program, that they work with Toronto Community Housing and they base your rent on 30% of your income. The program was finalized last year because of lack of funding, so there aren't a lot of options out there for future generations.

I have a diploma in travel and tourism, and I'm going back to school for ASL, American Sign Language. I've been successful because I had a home to go to. Youth in general are affected by a number of problems, but if they have a warm, safe home to go to it makes a difference. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. If you'd just state your name.

**Ms. Nicole Hoeksema:** My name is Nicole Hoeksema. I grew up in a small community but because of the lack of transportation and all that, I was living with my grandmother. Being a senior and for legal reasons, she had to move out to her son's, so I had to move out on my own because I had nowhere to go.

Looking for an apartment in a city that I did not know, because of transportation reasons and schooling, the lack of funds being there, only having \$750 to find an apartment, not having a job, landlords look at you and are like, "Well, you're not even employed. How are we supposed to make sure that you get our money for rent?" They turn you down right away; and the lack of references, because I've moved from home to home and I wasn't stable at all for a year or three years, as they require.

I ended up having one week left before May 1; I had to have a place by May 1. At that point in time last year, I



had an offer for an apartment building for \$690. I took it because I didn't want to be homeless on the street. Even today, I still wonder where I'm going to be in the next little while, because rent just keeps getting higher and higher and there's no money for it.

**Ms. Martha Kivanda:** Good afternoon. My name is Martha Kivanda. I'm 23 years old and I'm the mother of a two-year-old child. I'm a graduate of the child welfare system. When I moved out of my foster home at 18 years old, I had nowhere to go.

I wanted to finish high school and get my diploma, but trying to find housing that was affordable and paying other living expenses out of the small stipend that is given to youth in care makes for a very stressful life.

As you know, renting bachelor or one-bedroom housing in Toronto is very expensive, and after paying rent, you have such little money that buying bus tickets to go to school is impossible.

Over the years, I've lived in some pretty bad situations. I've tried renting with friends but that never worked out because they have different agendas than I do. I tried living in poor neighbourhoods so that I could afford a one-bedroom apartment. However, that also brings out other elements and influences in your life that are not good.

At 18 years old, when I had to move out on my own, I had no credit and no one to sign a lease agreement or to be my co-signer, so I was left at a real disadvantage.

Lack of safe and affordable housing stops us from advancing in life. The government needs to put youth in care forward as a priority in social housing so that we can get affordable housing when we turn 18 years old. Youth in care face many barriers because they come from dysfunctional families that don't provide any support when they leave the care system. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation. We have about six minutes for questions. Following the rotation, we'll start with the NDP this time. Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you so much for your deputations. Our hearts and prayers are with you in your ongoing struggle.

Right now in the province of Ontario we have 142,000 families waiting for affordable housing, and the average wait time is in excess of 12 years. Unfortunately, this bill doesn't give one dollar, one new unit, one new rent supplement—it does nothing for your situations, and I wish it did.

1410

We in the New Democratic Party are going to fight to try to make sure that there are some amendments to give this bill some teeth because, right now, it's not an answer to your issues.

I would certainly recommend that you, as you have done today, be really active around this issue and let your voices be heard, because we politicians need to hear your voices, both at the federal level—there's an election on right now; go to all-candidates' meetings—and at the provincial level in the fall, and demand your right. Your right is UN-guaranteed, by the way, to safe housing.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party.

**Mrs. Donna H. Cansfield:** Thank you very much for your presentations. You've identified an area that, actually, when I was in Ottawa, we talked about as well, and that's the whole issue around youth care. It's a little bit different from primary adult care because your situations are different. Some of you are going to school and some are not, and you have a youngster, for example, to look after.

I understand that between the ages of 18 and 21 there's a gap. There is a huge gap, and it's interesting because that gap is also there in other areas, yet somehow you sort of become non-persons in there for a while. You're right. How do we deal with that?

One of the solutions that was put forward this morning, and I'd be interested to hear what you thought about it, was that there are some 11,000 bachelor apartments that could easily be made into units but there's something that prohibits that from being done.

I was curious as to: Have you sat down and actually had some conversations about what I call the "art of the possible"?

Contrary to what my colleague has said, we have put \$2.5 billion, along with our federal counterparts, into housing. Is there more to do? Absolutely. But what we really do need are some of the solutions from the folks who are on the ground living through this, saying that these are some of the really "art of the possible" options that are out there.

I really would be interested—if you can't do it now—in hearing from you where you think we could fill some of the gaps between 18 and 21 in some of the areas. For example, in the city of Toronto, they actually have a fund where they'll fund a young person to stay in school until the age of 21 and supply not only their books, but also housing. Should that be something that could be replicated in municipalities across the province? How do we start that conversation?

I'd be really interested to hear from you. As I said, if you can't do it now, certainly, maybe you could send us something.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on, then, to the Conservative Party. Mrs. Savoline.

**Mrs. Joyce Savoline:** Interestingly enough, Mrs. Cansfield and I are thinking on the same lines here, I think.

First of all, I want to congratulate you for having the maturity, the confidence and the courage to come here today to express to us what your personal experience has been. I see that all of you are working very hard to attain some goals through some very difficult barriers. Congratulations, and keep up the good work.

I, too, am concerned about the gap that exists for youth who find themselves homeless, because it's a very confusing time in one's life when you're trying to assert an independence, and in your case, through some very challenging issues that you have to probably face on your own.



What would be helpful for us is, through your experience, observations and discussions that you've had with other folks in the same position in the system, whether or not you've been able to come to some conclusions about what some of the options are that elected people can consider to help your situation. Is there anything in writing or that you could send to us that says, "If I had my wish, if you were going to do anything to help us, here are the three things that would be most important to give us some encouragement to keep going?"

**Ms. Nicole Hoeksema:** One thing that, in talking with kids in my agency—we realized that for people who get a mortgage, you can go with a fixed rate or you can go with—I forget the other rate, but you know how much you're going to get, unless you go with the other option. But most people go with the fixed rate because it's 100% guaranteed that it's not going to change.

With rent, every year your landlord could come back to you and say, "I'm going to put it up \$5." I think there needs to be a way to look at how much most of the people in the community are making to be able to afford those rent prices and to manage them.

**Mrs. Joyce Savoline:** Like creating a program that would be specific to that.

**Ms. Nicole Hoeksema:** Yes, so that landlords can't just jack up the rent to whatever they want, where people who are living in those communities can afford them and not worry about it being so high that they can't afford it because they're not making enough to afford it.

**Mrs. Joyce Savoline:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

Did you want to add a word? Sorry.

**Ms. Michele Engelhart:** No, that's okay.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation, and you're welcome to stay and listen to other presenters this afternoon.

#### OFFICE OF THE PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH

**The Chair (Mr. Lorenzo Berardinetti):** Our next presenter is the Office of the Provincial Advocate for Children and Youth, Mr. Irwin Elman.

**Mr. Irwin Elman:** Good afternoon. Thank you for having me here. I am the provincial advocate for children and youth. My name's Irwin Elman, and my job is to elevate the voices of children and youth, particularly those in state care or on the margins of state care. I understand my role as walking alongside and being allies with these children and young people, and understanding that they possess a certain wisdom that comes from life experience, and I think just earlier you had an example of that. We can learn from them, learn from their truth, and sometimes they're the most powerful of advocates.

I know that today and in your previous hearings, you'll hear from people who raise issues like a commitment to adequate housing as a guarantee under international human rights law, like the Convention on the

Rights of the Child. I think that's important for goals and timelines to eliminate housing or increase funding for social housing, and many more issues—inclusionary housing plans.

I support all of those ideas. I don't want you to think that I don't, but I want to focus my comments on young people who are in and out of care.

Over the past six months or so I've met with ministry after ministry, including the Ministry of Municipal Affairs and Housing, the deputy minister, the ministers. I've met people who were expected allies of young people in state care, and some unexpected, like the Ontario Medical Association. When talking to them, there are three things that people seem to agree on.

One, children in care—crown wards—are your children. I'm not saying that lightly. They are your children. When a child is taken into care by the government because of physical, emotional, sexual abuse or neglect, the government is making a commitment to parent them. That's why they're called crown wards. It's crucial that everybody sitting here—those children, the children you just heard, are your children. They're the province's children. That's an important point. Nobody debates that point.

The other point is that when they leave your care, they're not doing very well. It's not to criticize; it's actually a truth. There's no debate about it. The most recent study, for example, by the Ministry of Education and the Ontario children's aid society says that the graduation rate of youth leaving care—crown wards—is 40%, compared to their peers who aren't in care, who aren't your children, the province's children, where it's about 80%. It's not good. They're over-represented in the homeless population, over-represented in our youth justice system and our justice system, so we know they're not doing well.

The other thing that is not really debatable is that study after study says—as one youth told me, it's not rocket science—that this is what can help: housing; education; mental health support, if they need that; counseling; employment. They need the practical things. They need connection to that one person who will make a difference in their lives; connection to a family of their choice, of their own making; connection to a community.

They need connection. As one youth said, to be on your own does not mean to be alone. Then they need the ability, like the young people you just heard, to feel like they're in control of their lives, to make decisions for themselves, to have that confidence.

1420

Those are things that we need, as parents—that you need, as parents to them—to provide.

I don't say that too lightly. But what I want to say to you—because I've been meeting ministry after ministry—is that how to support these young people is through a whole-government approach. Every ministry has a role, not just MCYS. These are not their kids. They're not crown wards of MCYS; they're crown wards of the province—of every ministry.



The Ministry of Housing, in this bill, offers you an opportunity, as their parents, to make a difference. I want to tell you how you can do this today. I'm making practical suggestions here that won't cost a lot of money.

Well, what can we do? All crown wards should be eligible for extended care and maintenance. If a young person is a crown ward but doesn't have status in Canada, because they're a crown ward, because they're your children, they should be allowed to live in your house, period. It doesn't happen very often, but there are young people who it does happen to, and when they apply for rent-geared-to-income, even though they're your kids, they can't get it, because they're not eligible. It shouldn't happen. You can make a change right now—it won't cost you any money—and change that for your child.

You can make extended care and maintenance—this is the money that they get between 18 and 21 from children's aid—not count as income, so that they can pay the lowest rate. Why would you not do that for your child who's struggling at school, who has the courage to get to school and go? Why would you not just put in this act right now that crown wards don't have to use extended care and maintenance as income? It's simple, it won't cost you a lot of money, and it will help the kids—your kids.

Scholarships received by crown wards shouldn't count as income. If they're lucky enough and fortunate enough to find the resource connection, the voice that they need, to get to post-secondary education—your kids—why would you take some of that scholarship money away?

Crown wards should be considered a special priority group—your children—just the same way that people who have suffered through domestic violence should be. It won't cost you any money to do that, but it's a huge statement you can make today that would make this bill speak to your children, who you're responsible for parenting.

Service managers should be required to establish distinct local plans with all child welfare agencies and young people in care about how, in their communities, they're going to support crown wards leaving care with housing. Toronto has done some examples, like the person suggested around rent-geared-to-income housing. Unfortunately, it no longer exists. But they should be required to meet with child welfare and young people in care and say, "How are we going to do this for our kids?" You can put that in the bill now.

Local working groups, including young people, should be included in how to implement this act. One of the groups I met through the Ministry of Municipal Affairs and Housing was the service managers of the province. I gave them the same pitch. They said, "We'd like to do this." Quite frankly, they said, "We wish we had some funding to do that. Otherwise, we won't be able to do it." That's their comment to me. Still, I think that their will is there, if you put in this piece of legislation that they need to create these plans for young people in care and leaving care.

I don't believe it's a partisan issue, because they're all your kids. They are our children, they're not doing well,

and we know we can do better. You have an opportunity to make that happen.

That's what I wanted to say. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have around six or seven minutes, so two minutes per party. We'll start this time with the Liberal Party. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for what you do every day. Young people need an advocate. I spent 15 years of my life doing that, and I know how important it is, so thank you. I also know it can be very difficult. I used to say sometimes that because children don't vote, they don't get the voice, so it's important that they have one.

You raise a couple of really interesting issues. Again, it's sort of the gap challenge. I didn't realize that that program wasn't available anymore in Toronto, so thank you for that information.

The whole idea of sort of a broad government approach makes a lot of sense because you're right: The young people end up in a little of this and a little of that, and there are multiple ministries involved. Children and youth could actually be the catalyst for moving forward on some of these ideas around plans and, again, dealing with that gap, what happens when they leave care, where is that—I call it an umbilical cord until they get established out into the community, and how we could do that.

I would be interested if you've got some really good, practical solutions. You don't have to articulate them now, but maybe if you could get them to this committee, it would be really interesting to hear from your perspective, because you've obviously been through many of these, where you think we can make some really concrete changes or a concrete difference.

**Mr. Irwin Elman:** You have a written submission from us that has some of those suggestions.

**Mrs. Donna H. Cansfield:** Great. Thank you very much.

**The Chair (Mr. Lorenzo Berardinetti):** We're going to move on to the Conservative Party. Ms. Savoline.

**Mrs. Joyce Savoline:** Thank you, Mr. Elman, for being here today, and thank you also for helping to look after a very vulnerable part of our society that, if treated well, can turn into productive, confident young Canadians. Thank you for everything that you do.

I'm interested, just quickly looking over some of the suggestions that you've made—truly, you call it: Bill 140, the opportunity. I think there is a huge opportunity here to speak specifically about children who are getting caught in the system, who are trying so hard to eke out an existence for themselves and, most of the time, in a very lonely way.

Would you consider a program that allowed for market apartments that are available today to be supplemented so that not just youth, but youth in particular in this case, could rent them for a certain amount of time, being supplemented until they get through school or they get the job that they're looking for? There would be a



timeline involved because those things aren't a forever thing, but just to give that help up to, first of all, let these children know that somebody does care, and secondly, to give them the freedom to excel in whatever it is they've chosen to do—not building bricks and mortar. I'm talking about using existing stock.

**Mr. Irwin Elman:** I understand. Let me say that I think there needs to be a mix of kinds of supportive housing and subsidized housing in most communities. As the strategy indicates, communities have to decide for themselves. Service managers, I think, need to work with the community in a local way with what makes sense in those communities.

Saying all that, yes, there was a rent supplement program here, even in the city of Toronto, that was piloted; I don't know if it exists any longer. Young people in care spoke to the city of Toronto and said, "Can we have some of those supplements set aside for us?" It happened. But it only happened in Toronto; it didn't happen in the other parts of the province. I don't believe that that program still exists. It was successful. It's an example of what I'm saying needs to happen with service managers in each local community who will be in charge of how to figure out what kind of housing they need in those communities. They need to be, I think, obligated by regulation or legislation to consider your children. Yes, I think that's an option. Yes, it can be helpful. But it needs to be in the bill.

**The Chair (Mr. Lorenzo Berardinetti):** We're going to have to move on to the NDP. Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you for your submission. I was one of those children; I was street-involved at 15 and on my own since then. Back in the day, you could actually live on student welfare, pay rent and survive. That was under a Tory government, so we've fallen a long way since then, unfortunately.

I just want to say on behalf of the New Democratic Party that we've introduced lots of motions that have been voted down or not picked up by this government.

Your recommendations for amendments, I will take personally upon myself to introduce as amendments to this bill. It's up to the government whether they'll vote on them or not, but they will be put forward by the NDP. Thank you.

**Mr. Irwin Elman:** Thank you for that.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation.

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## HABITAT FOR HUMANITY TORONTO

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation, Habitat for Humanity, Mr. Neil Hetherington. Good afternoon, and welcome.

**Mr. Neil Hetherington:** Mr. Chairman and members of the committee, thank you for the opportunity to address you today on this important topic.

I have the privilege of speaking on behalf of tens of thousands of volunteers, not only in Toronto but across

the province, who have joined this wonderful worldwide movement of building homes and hope with Habitat for Humanity. Some interesting worldwide statistics: We're now building at a rate of one home every 10 minutes somewhere in 100 countries, and have now built over 500,000 houses. Our record needs to be improved in the province. Much of what has happened over the past few years is just really very positive for the growth of community involvement and volunteers in Habitat for Humanity getting affordable housing built.

We offer our partners a hand up and not a handout, and we offer an interest-free, no-down-payment opportunity for families that would otherwise not be able to afford a home of their own. The results have been dramatic. We have noticed an increase in terms of the better jobs that our families, once they're moved into a Habitat for Humanity home, are getting. Thirty-three per cent of those who move into a Habitat for Humanity home end up with a better job within one year of that move. Twenty-four per cent of the parents who moved into a Habitat for Humanity home ended up back in school. Fifty-three per cent noticed improvement in their child's behaviour and 39% showed remarkable improvement in their children's grades. Most important, I believe, is a remarkable statistic that was recently noted in the provincial Legislature by the Honourable Donna Cansfield that in Toronto, every single child who has grown up in a Habitat for Humanity home in this city has not only graduated from high school but has gone on to university or college. That, to me, demonstrates success in a permanent way, where you are building a home but you're doing it in a very dignified way and therefore breaking the cycle of poverty.

With regard to the bill before you: First of all, thank you for the opportunity to have a meaningful consultation about this. Like all good sermons, I have three points to bring forward.

First of all, I was delighted to note in Minister Duncan's comments on Monday after the budget that he is continuing to pursue the federal government aggressively in terms of making sure that we renew the federal-provincial deal that has seen so many positive benefits.

The first point, though, that I wanted to speak to was about the affordable housing loan program. Michael Shapcott of the Wellesley Institute noted last week and praised the \$500-million affordable housing loan fund through Infrastructure Ontario developed under this government. I share his thoughts on this program. In Mr. Shapcott's words, "This is perhaps the most promising and innovative [housing] finance mechanism at a government level anywhere in Canada in the past generation." He goes on to explain—I think, perhaps, typically of Mr. Shapcott—that his praise wasn't completely unbridled. He noted, correctly, that only one third of the dollars in the loan fund had been allocated to approved loans in the almost three years that the fund has been around.

I hope you share with Habitat for Humanity our view that our record has been a demonstrated one where every single one of the loans that has been provided to Habitat for Humanity has resulted very quickly in a nimble



organization building a home. For a \$50,000 investment through this loan and this down payment assistance, a home has been developed and built by the local community.

My second point is our tremendous support for the drive under the provincial strategy to support local planning initiatives. Habitat for Humanity is about mobilizing the local community, and so, for this to be locally delivered programming, we would love to see that service managers be provided with as much flexibility to deliver loans, grants and other new initiatives that come forward. If it is going to be locally delivered, we're just asking that they have great latitude and great flexibility in being able to deliver those programs. Under the past loan agreement, there were minor issues when it came to how the mortgages were structured, and service managers, at times, felt that their hands were tied. We would love, as much as possible, for their hands to be untied so that they can pick up a hammer and build some houses.

The third and final point that I wanted to speak to was: This bill has opened up the Planning Act, and we're supportive of the province's requirement for municipalities to encourage the development of second suites and these new places to live. Secondary suites often result in affordable unit development and in a new income stream for homeowners and an opportunity to maximize density in local neighbourhoods. The result may also go on to have other wonderful effects in terms of reducing the pressures of urban sprawl and the associated taxing infrastructure costs.

So while the bill is open, while the Planning Act is open and on the table, we would encourage the committee to consider carefully further changes that may result in additional affordable housing unit opportunities. For example, these changes may include legislative encouragements to municipalities to reduce charges and fees imposed on affordable housing units, and changes that may result in fast-tracking permit applications and requiring municipalities to fast-track permit applications and rezoning applications for affordable housing developments.

Density bonusing is something that Habitat for Humanity is also a supporter of, and we believe that this can come through improved and additional guidelines under section 37 of the Planning Act for municipalities to leverage that opportunity.

Again, thank you for your leadership and this meaningful consultation process and your desire to build a better Ontario. We support the initiatives in so many ways. We support the affordable housing strategy that has been put forward by the government, and we applaud that. I wouldn't be the ambassador to Habitat for Humanity if I didn't also invite you all to volunteer with us. I would simply ask the committee, if I'm allowed, through the Chair, that if there's anyone on the committee who's not going to volunteer with us, perhaps they could raise their hand, if that's a fair question. With that, I will end.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll begin the questions. We have about seven minutes. We'll start with the PC Party first. Ms. Savoline.

**Mrs. Joyce Savoline:** I would like to thank you, Mr. Hetherington, for everything Habitat does across the province. We have some wonderful projects in Halton that we're very proud of. The kind of confidence and pride you instill in families is—I guess “priceless” is the word for it, so thank you.

Yes, I've had the honour and the fun of participating, and I have come dangerously close to being a good taper.

**Mr. Neil Hetherington:** Wonderful.

**Mrs. Joyce Savoline:** I just want to say thank you for being here and letting us know.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the NDP. Ms. DiNovo.

**Ms. Cheri DiNovo:** Hi, Neil. Thank you for coming and deputing, and thank you for everything that Habitat does across Ontario, and thank you for the prayer breakfast as well every year, which is something that we all look forward to here.

A couple of questions: You talk about density bonusing. I wonder if Habitat has talked about inclusionary zoning, which was a bill that came from my office. I'm wondering if we're talking about the same thing here. Most of the submissions here have encouraged the government to consider inclusionary zoning, which doesn't cost a dime and really is just an invitation for municipalities to take part. That's number one.

The other issue, too, is that I would suggest you submit a very detailed ask to the ministry in terms of what Habitat needs for your good work in the communities.

Finally, we think of Habitat as building new homes, but so much of a dense area like Toronto is about apartments, so maybe you could talk about what, if anything, Habitat is doing around unit redevelopment.

**Mr. Neil Hetherington:** To the second point, we will submit a detailed request rather than broad strokes.

On the density side of things, in high-rises, particularly in Toronto, we have had wonderful partnerships, particularly with the Daniels Corp., where we have purchased units within new high-rise developments, we have finished them off, from the taping stage on, and we have been able to make sure that there is affordable housing built where people have places of employment and are close to access to places of employment.

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We're certainly in favour of density bonusing. On the inclusionary zoning, we would simply ask that the committee carefully examine whether or not adding a small number of units is going to be a tax on the other units within that new development, thereby squeezing out the middle ground. There are good models in the States where that has worked effectively and there are models where it hasn't worked. We have not put forward a position on inclusionary zoning, but on density bonusing, any time you can have, as we have experienced—and just down the street, through density bonusing and the Daniels Corp., we've been able to have a win-win both for the developer and affordable housing by providing a cookie to the developer rather than punitively putting a stick there.



**Ms. Cheri DiNovo:** Right. The bill simply opens up the possibility and it can then be worked on in any given number of ways. It just opens up the Planning Act for municipalities. It's not prescriptive.

**Mr. Neil Hetherington:** Right. I think there are a few areas in the Planning Act that we can adjust and make more affordable housing happen, and that's one tool.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to the Liberal Party. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I think my colleague would like to ask a question first.

**Mr. Lou Rinaldi:** Really, it's not a question. Neil, thanks for being here today. I just want to say that, yes, I still have some scars.

I just want to give a bit of a plug for Habitat for Humanity in Northumberland. I think we were the first Habitat for Humanity group that built a home in a native community, in Alderville, and that was my last stint at the hammer. Just the fantastic work you do—like I say, they moved into the native community in Alderville, just north of Cobourg, and it was fantastic. Thanks for all the good work that you and Habitat do for us.

**Mr. Neil Hetherington:** Through the Chair, if I could just comment back: The home is still standing in Alderville, so thank you very much for that. But that is only one home that we need to do, and the partnerships that we have with the First Nations are growing. It certainly has grown in the United States and we need to catch up here in Canada because there's tremendous need.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Hetherington, for your presentation—oh, I'm sorry. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you, Neil. It's nice to see you.

**Mr. Neil Hetherington:** It's great to see you.

**Mrs. Donna H. Cansfield:** The statistic that just gets me is the fact that the children are succeeding once they have a home and it's making such a difference for them going on to skills or college or to university. That is the real bonus.

One of the challenges you identified was the fact that there's so very little land where we can actually build these units and sometimes the land that is available is not close to employment or transportation, both of which are really critical. I was curious whether or not you've given any thought about how we could change that or manage that in a more effective way.

**Mr. Neil Hetherington:** I think when it comes to building in dense areas, for us in Toronto, that's going to mean brownfields—this bill does not touch that—and how we can limit liability for boards that choose to make the decision to build on lands that need remediation and making sure that liability is not necessarily transferred to them personally, and how we can work with the Ministry of the Environment. I think you'd start to see some additional density on that front so that we can get those homes closer to places of transportation.

**Mrs. Donna H. Cansfield:** Actually, I think you've identified something that would be in virtually every city

that you go to because the issue of transportation and access that's readily there, and also close to where they work, is really important. It's very difficult if you have to get on something that takes you three hours to get to work. Suddenly it's not an affordable option.

**Mr. Neil Hetherington:** That's right.

**Mrs. Donna H. Cansfield:** You felt that if we were to be able to sit down and look at the brownfield lands and then find some way just to mitigate or manage that risk in a more effective way that we'd be able to do far more density—

**Mr. Neil Hetherington:** Absolutely, without a question. I think that you'd also have the development community behind you and you'd start to see some of the lands cleaned up very quickly.

**Mrs. Donna H. Cansfield:** Great. I think that's a wonderful idea and we'll pursue it. Thank you.

**Mr. Neil Hetherington:** If I could, just one last comment, Chair—

**Mrs. Donna H. Cansfield:** I should say before I go, I got to do a hammer and I was stuck outside with stairs. So you have obviously graduated, both of you, far more than I. Neil, you have to get me working again.

**Mr. Neil Hetherington:** I will make sure you have a hammer. Actually, I will start that today. But here's a hammer pin for you.

The last comment just on the transportation, if I could leave with this: When you solve affordable housing and get affordable housing in dense areas, you solve the transportation issue, and you solve the food bank issue in many ways. But when you get affordable housing close to places of employment, you reduce gridlock and you reduce environmental gasses. We all know that and we just need to make it happen. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you again for your presentation.

## GOLDEN HORSESHOE CO-OPERATIVE HOUSING FEDERATION

**The Chair (Mr. Lorenzo Berardinetti):** Our next group is the Golden Horseshoe Co-operative Housing Federation. Good afternoon and welcome. If you could just state your name for the record.

**Ms. Kathy Dimassi:** My name's Kathy Dimassi.

**Ms. Tracy Geddes:** Tracy Geddes.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you.

**Ms. Kathy Dimassi:** I am the vice-president of the Golden Horseshoe Co-operative Housing Federation. With me today is the president, Tracy Geddes.

Thank you for this opportunity to make a deputation on Bill 140. I am here today speaking on behalf of more than 50 non-profit housing co-operatives, home to some 4,000 residents in the Hamilton-Niagara area.

Since the Social Housing Reform Act was passed, housing co-ops have struggled to maintain their mandate as member-controlled communities. In support of CHF Canada, our organization, with our members, has mounted a series of lobby campaigns over the years to restore co-op



communities to effective member control. The SHRA and subsequent regulations gave a great deal of control over our communities to local—

*Interjections.*

**The Chair (Mr. Lorenzo Berardinetti):** Sorry to interrupt, but could we take the conversations outside if there are people who are wanting to speak? I'm having trouble hearing. I would just ask—one moment.

Okay. Please proceed. Sorry for that.

**Ms. Kathy Dimassi:** We have, during this time, made every effort to maintain open communications with our service managers and work in the best interest of our communities within the required legislation.

Lobby efforts have resulted in very limited improvements to the SHRA. The service managers still maintain the ability to control and enforce changes which are not necessarily in the best interests of our aim to self-manage our co-op communities. Bill 140 now presents the opportunity to make those changes by providing a balance between the housing co-ops' ability and rights to self-manage and the service manager in the position of a regulatory agent.

I am submitting a brief to the committee which we feel will strengthen the recommendations from the Co-operative Housing Federation of Canada and the Ontario Non-Profit Housing Association, which would enable this new legislation to be fair and workable for all parties. We are requesting that these changes to Bill 140 be considered.

The following are some of the key points which we feel would make managing and governing our co-operative housing communities more viable and functional, as well as individual cases that have affected and changed the lives of the co-operative community.

We are in support of the new statement of purpose in Bill 140, which includes "community-based planning and delivery of housing and homelessness services" and "flexibility for service managers and housing providers." We believe that it is essential for co-operative housing providers to have a role in the development of these programs within the municipalities. We believe that community-based housing can act as a catalyst to address other directly and indirectly related community needs and concerns.

A family was living motel to motel for approximately 18 months, waiting to be offered housing on the centralized waiting list in Hamilton. They were cooking their meals for their family on a hot plate, and their children had changed three schools within this period. The housing provider contacted them since the municipality had set up additional priorities, which included that one of every five applicants taken from the centralized list must have "homeless" status. The family was not only homeless, but they were also unemployed since they were unable to hold down a job due to the uncertainty of housing and stress related to constant moving.

The family was offered housing and moved into the co-operative. The children settled into their new school and their marks improved. The father immediately began

his member involvement with the co-op on the maintenance committee, completing small repairs in units, which increased his self-esteem as a provider for his family. His wife was very shy and had difficulty meeting new people, but with the support of the other members of the community, she began joining social activities for the children and now holds down a full-time job.

This is one of many cases where providing the opportunity to become part of community-based housing has directly affected the lives of families. We believe that it anchors families to communities, reduces transience and increases children's chances of completing school successfully. This is the most visible quality-of-life indicator in a community.

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We agree with the need for flexibility to service managers, as long as it does not reduce current existing protections for community-based housing providers. Section 71(5) of Bill 140 does not support section 1, purpose of the act, since it allows a service manager to decide on governance and operations of the co-operative. This should be removed to provide democratic control, which is part of the co-operative principles. Bill 140 provides much more flexibility to the service manager, removes basic protections needed, and there is less latitude for housing providers to run their affairs.

Other areas where we believe Bill 140 has weakened the rights of housing providers are the removal of key words that the service manager needs to act "reasonably" and that a breach must be "material" and "substantial." Since this has been removed from the legislation, it would make housing providers vulnerable to decisions made by the service managers.

Bill 140, section 85(10), indicates that the service manager can consider a breach to be a single-year deficit instead of an accumulated deficit. Best practices in financial management are always the intent of co-operative housing providers, and many include this as part of their mission statements.

It is with this that decisions are made to ensure the longevity of our buildings. With the shortfalls in replacement reserves for co-operatives, we have had to make hard choices with our operating budgets and necessary repairs to maintain buildings. These choices are made by the community and enhance the marketability of our co-operatives.

We believe this should be changed to reflect the SHRA, that a breach would be considered only if there was an accumulated deficit.

Co-ops, working with their members, staff and board of directors, make decisions in the best interests of their communities. A co-operative in Hamilton, after receiving its benchmark figures from the ministry, reviewed their operating expenses and, due to the size of property that they were required to maintain, had to come up with a creative way of providing services to their members within the funding provided to them, or they would be reporting deficits annually. They could no longer continue outside contractors to clear snow from their internal



sidewalks and four parking lots or cutting grass over the seven and a half acres of common area.

Therefore, they recommended completing these tasks in-house by utilizing their current staff and the members of the community. The co-operative purchased the required equipment, established a safe area to store the equipment and a means of training members on use of the equipment to conform with insurance. This was over seven years ago.

Since then, due to our continued diligent work at keeping costs down, this co-op has maintained annual surpluses. By leaving this autonomy in the hands of the members, it provided the community with an opportunity to begin to influence area housing markets and to achieve a marked level of self-reliance. It offers a major physical boost to, and a rejuvenation of, the area by contributing to the positive appearance, fostering a positive feeling for the members.

If Bill 140 is presented in its current form, future decisions of the co-operative may place themselves in jeopardy. In this co-op's case, this equipment will eventually break down and need to be replaced. This expenditure could be considered a breach by the service manager. If the service manager did not consider their efforts and vision, the co-operative could face supervisory management control and removal of the democratic process of the members in making what they believe to be a sound financial decision.

Another scenario with respect to the same co-operative is based on the immediate need of both the membership and surrounding community to provide additional safe and affordable housing. The co-operative currently does not have one-bedroom units, and many of its members are now empty nesters who will be forced to leave their community of which they have been members for 30 years.

The membership, as part of their mission, vision and values statements, are investigating the possibility of building one-bedroom units on their property to accommodate the needs of their members, as well as the surrounding Hamilton community. As part of the potential funding requirements, the co-op may need to invest some of its own surpluses to see this project to its final completion. Under the affordable housing strategy, this community has recognized and determined the need for more affordable, low-income housing and has set in motion a direction to proceed.

The co-operative is continuing to build a sense of community, participation and ownership in the decisions that they make now and into the future. In the affordable housing strategy, the Ontario government identified the need in protecting non-profit and co-operative housing and maintaining community-based approaches to housing. Co-operative housing acts as a key stabilizing force in areas undergoing revitalization. Good housing helps contribute to improved health, education for children and reduced stress. We believe that without these recommended changes to Bill 140, the ability to have democratic control over co-operatives will be eroded away. We will lose our autonomy.

Bill 140, sections 155 to 157, now allows housing providers to request a review of some of the service managers' decisions. We are pleased with initial attempts to allow housing providers an open dialogue regarding disputes. However, it would appear to be a conflict of interest, since the service manager is mandated to do the review but is party to the initial dispute. This diminishes the potential effectiveness of such a review. To ensure this is fair and impartial, an independent review system is needed.

We support CHF Canada's recommendation that Bill 140 be amended to introduce an arbitration system for review of the service managers' decisions.

Part of our discussions and lobbying surrounded the need for changes to the current SHRA relating to triggering events, which would allow the service managers to place co-operatives into receivership. We are in support of the introduction of supervisory management, which we believe will reduce the incidence of possible receivership of this vital stock of housing. We believe that Bill 140 needs to clearly establish the role during the supervisory management of the property and that the ultimate goal will be to return control back to the co-operative. We believe that clause 74(2)(b) of Bill 140 could result in service managers placing housing providers in a position of receivership and possible sale when other alternatives could be sought.

We welcome the changes indicated in the long-term affordable housing strategy that will simplify the RGI calculation process. Golden Horseshoe CHF—sorry, Tracy, do you want to finish?

**Ms. Tracy Geddes:** I'm going to take over for a little bit.

We welcome the changes indicated in the long-term affordable housing strategy that will simplify the RGI calculation process. GHCHF, in its role to effectively support and assist our members, is called on repeatedly to respond to the concerns from both the membership and staff and to navigate through the lengthy and difficult understanding of housing charge rules and reviews since the SHRA was mandated.

Sorry; I realize time is ticking. We still have some.

The criteria housing providers are required to collect from applicants of RGI housing subsidy have become onerous and, at times, surpass the time frames established. This effectively diminishes an applicant's ability to obtain affordable housing. The ministry's promise to eliminate or reduce the more than 60 criteria used to calculate income is a substantial decrease in the workload of housing providers and helps to free staff time for some of the many other administrative tasks required to run our co-operatives effectively.

I'm just going to skip through to the end. Everybody has a copy?

We believe that since we have been working with the SHRA for over the past 10 years, we can provide the valuable input into areas that need to be addressed, both for the housing providers and the service managers. We believe in the importance of putting control of their



housing in the hands of the individuals who live in the community.

In closing, we would like to thank the members of the committee for giving us the opportunity to express our views. We'd be pleased to answer any questions in the short time remaining.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. We have about two minutes. We will try to fit everything in.

We'll start with the NDP now. Ms. DiNovo?

**Ms. Cheri DiNovo:** Thank you for your submission. Just to be very brief, I'm totally in support of the amendments you suggest. We in the New Democratic Party will be putting them forward as amendments to Bill 140, so rest assured.

Co-op housing is really one of the essential ways of meeting the housing demand in Canada. In fact, when you look at the St. Lawrence Market redevelopment, which was the landmark of its day in the 1970s, it all started with a co-op. So thank you for what you do.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the Liberal Party. Ms. Cansfield?

**Mrs. Donna H. Cansfield:** I, too, am a very strong supporter of co-ops. I think it's obvious that you have managed your situation very well, and I applaud you for that innovativeness around the one-bedroom units and keeping your community together. I think that's really a good example of where this does work.

However, there are situations where it isn't working. How do you strike that balance? I think you've raised some good opportunities for discussion around managing that balance. Unfortunately, there are some situations where they're not as effective as you are. So, the service managers need to be able to do their jobs but, as you have suggested, not in such a way that it's punitive. So we need to find the balance.

Again, I really thank you for what you've put forward: well-thought-out and good suggestions. We definitely will be taking them into consideration. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to the PC Party. Ms. Savoline?

**Mrs. Joyce Savoline:** Thank you. I also want to thank you for being here today and for the work that co-ops do in our province.

I also want to zero in on what seem to be punitive roles here for incurred deficits. I'm wondering, from your experience, do you know of incidents or situations throughout this province that are bringing this rule to the foreground? Is there something happening out there that service managers ought to be nervous about?

1500

**Ms. Kathy Dimassi:** In terms of the deficits that are in co-ops, most of the deficits that are occurring right now are due to the lack of our replacement reserves. We just don't have the funding, and we're mandated to put only a certain amount in. It's just not enough to cover what we require. We just recently had our building condition assessment done, and our shortfall will have all of our replacement reserves spent within two years—and that's just doing our roofs. So it's not looking at the

longevity of the co-op and the building itself and when things need to be replaced.

Unfortunately, we get put into those positions mostly because we just don't have enough money. Even when we manage them really, really well, we still have to put the money aside to be able to, in five years, upgrade appliances and things that are in the unit.

**Mrs. Joyce Savoline:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you very much for your presentation today. Thank you for your written submission as well.

## AFRICAN CANADIAN SOCIAL DEVELOPMENT COUNCIL

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to our next presentation. It's the African Canadian Social Development Council. If we can have them come forward.

Just to remind you once again, you have up to 15 minutes, and any time that's left after your presentation will be allocated towards questions.

Good afternoon, and welcome. If you could just state your name for the record.

**Mr. Kifleyesus Woldemichael:** Honourable Chairman of the Standing Committee on Justice Policy, please allow me to extend my gratitude to you and to submit my presentation on behalf of the African Canadian Social Development Council in regard to Bill 140, which intends to repeal the Social Housing Reform Act, 2000, and to accommodate an act for housing service for seniors.

What are the basic needs for a human being? The basic needs for a human being are food, housing and clothing. In this issue, we have to address housing for seniors only. Due to the social assistance shortage, as seniors are living in poverty conditions, we hope that Bill 140 will be supported by all concerned participants to solve the problem.

Seniors must be considered for special needs housing, rent-geared-to-income assistance and get priority rule in the Social Housing Reform Act. On the other hand, if there is no availability of housing, the service manager could not provide rent-geared-to-income assistance for seniors. So the building of new houses must be continued.

**Housing and the living environment:** A positive view of affordable housing is an integral aspect of the international plan of action and is supported by the United Nations, which has indicated the following guidelines:

(a) Immigrant seniors without adequate income do not have options in term of housing. Living in overcrowded multi-generational homes is very common.

(b) These homes are located in old and poorly maintained buildings. Such housing conditions are highly conducive to tensions and conflict, not to mention the inconvenience, lack of privacy and absence of space for socialization and receiving guests.

(c) Housing and its surrounding environment are particularly important for seniors, inclusive of factors such



as accessibility and safety, the financial burden of maintaining a home and the important emotional and psychological security of a home.

(d) It is recognized that seniors are provided, where possible, with an adequate choice of where they live, factors that need to be built into policies and programs.

**Housing service priority for newcomer seniors:** In addition to the above problems, newcomer seniors have no priority right of getting rent-geared-to-income affordable housing. They have to be registered with the non-senior taxpayers and wait about 10 years. This problem has not been studied by the higher authorities to try to solve it.

**Challenges and barriers:** Newcomer seniors can't alleviate their problems of their high-rental houses by getting jobs. For many skilled immigrants, the problem is demonstrating the value of their academic and professional qualifications, which are challenged and denied by the government of Canada. Otherwise, they could have alleviated their problems by paying rent from their income if they were assisted to get a job.

Since skilled immigrant seniors are denied their qualifications and no job is given to them, at least they could get the right of first-grade priority for getting affordable rent-geared-to-income Metro housing.

**Housing supportive guidelines:** We know that the Ontario Seniors' Secretariat liaison committee has the following guidelines: (1) form an interministerial committee to address both housing and support services; (2) coordinate funding for the delivery of a supportive housing program that will deliver a range of client-centred options along the continuum of care; and (3) develop a central database that will track supportive housing projects and available units.

The Ontario government is developing a new, long-term housing strategy to make it easier for Ontario families to find and maintain affordable housing. The long-term affordable housing strategy will provide a framework for affordable housing in Ontario over the next 10 years.

But these promises have not implemented enough action and have not given a satisfactory result up to now. So the enactment of Bill 140, I hope, will solve the problem by taking the following points of view into consideration.

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**Conclusion and recommendations:** (a) continue building enough houses soon; (b) enact, in the new amendment, law that gives priority rent-geared-to-income affordable housing for seniors; (c) the building must be on the integral aspect of the international plan of action.

Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We have about four and half minutes to ask you some questions. This time, we'll start with the Liberal Party. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for your presentation. It's an area, certainly, that is of concern to me, as I live in a constituency with a very high

number of seniors. I have been working with my Somali seniors, in particular, around this issue of housing, and also community centres, a place to congregate.

What you've identified is something we have also identified: that it's a real challenge. The priorities that are given are usually given by the municipalities themselves. So different municipalities determine—with the exception of violence, where it has become a provincial priority in housing.

Are you suggesting that the province should prioritize seniors, as opposed to the municipalities making the decisions about who should be on the priority list?

**Mr. Kifleyesus Woldemichael:** Yes. We have to consider that seniors are two groups. One group is the seniors who are 65 years old and who were working. Because they were paying contributions, they get a regular pension. The other group is not like the first group. The other group are seniors who have come recently. These seniors have not got old-age security benefits. They cannot get regular pensions because they were not taxpayers. These new kinds of seniors are the poorest of the poor. They are barred by legislation made in 1952 that says that immigrants, unless they've live in Canada for 10 years, cannot get old-age security benefits. These seniors also have not been provided for in the law to get priority rent-geared-to-income, affordable housing.

The province of Ontario and the municipality of Toronto are interrelated. The municipality has not provided any priority housing for new immigrant seniors. They have to wait with the taxpayers, the younger generation, who are working. The Ontario government has not considered this and put it in the reform act. The service manager cannot give priority by himself.

**The Chair (Mr. Lorenzo Berardinetti):** I'm going to have to cut you off—

**Mr. Kifleyesus Woldemichael:** That is the problem.

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry; I don't mean to cut you off, but I want to make sure that we continue this afternoon. I'm going to have to still let Ms. Savoline, from the Conservatives, ask you some questions, as well as the NDP's Ms. DiNovo.

**Mrs. Joyce Savoline:** I have her social conscience; that's okay.

I want to thank you for being here today, and I want to thank you for the completeness of your presentation. I have no questions, but I want to thank you for bringing us your perspective today.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on, then, to the NDP. Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you again for your presentation. On behalf of the New Democratic Party, we couldn't agree more. The essence is that we need new builds. We need more housing. With 142,000 families waiting on average 10 to 12 years, it's impossible. This, of course, hits seniors in need the hardest. No senior has 10 or 12 years to wait for affordable housing. We need new builds; we need new housing. It's a very short answer, but we will continue to strive to work for that for you. Thank you.



**The Chair (Mr. Lorenzo Berardinetti):** Again, thank you for your presentation. I think we've photocopied it and distributed it to all members. Thank you for your presentation today.

#### FEDERATION OF METRO TENANTS' ASSOCIATIONS

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation. It's the Federation of Metro Tenants' Associations. Welcome to the committee. If you could just state your name for the record.

**Mr. Geordie Dent:** Hello. My name is Geordie Dent; I'm from Federation of Metro Tenants' Associations. I'm the executive director there.

You'll have to forgive me: My chair was supposed to be here, and we were supposed to do this last week. Unfortunately, the sickness bug is sweeping through our office, as you can hear from my voice. I really want to thank you all for allowing us to reschedule for today.

You'll notice that you don't have a submission in front of you from us. That's mainly because most of what we're going to say today is going to be echoing what you've heard from an organization called the Advocacy Centre for Tenants Ontario and the Centre for Equality Rights in Accommodation. Mainly why we're here today is to talk a little bit about the tenant perspective, which the FMTA gets quite a bit of in our dealings on our tenant hotline, which gets over 10,000 calls a year, and in our outreach services, which reach about 23,000 tenants a year. We're here to discuss our concerns, comments, how we feel the bill will impact our members as well as the people who use our services.

A little bit about the FMTA: We're a non-profit agency. We've been around for close to 40 years. We have over 30,000 dues-paying members across Toronto. We run a number of city-funded services.

Again, one of those services is our tenant hotline. It takes a number of calls from tenants every year, many of whom are in public and social housing. These tenants are often extremely frustrated and angry about the fact that they're dealing with a piecemeal set of rules and regulations, many of which simply don't make a lot of sense to the average tenant living in a building.

The FMTA also sits on an inter-clinic public housing working group. It's a committee with a number of agencies, public housing tenants and legal aid lawyers specifically to deal with social housing issues. At this group, we hear the same things we hear on our hotline all the time: stories of hardship, confusion and chaos.

We're here today to talk about some of the most difficult problems that we hear about in housing with public housing tenants. The main thing that we hear from tenants is that they often have to deal with a kind of Kafkaesque bureaucracy just in order to get simple repairs done or to get discrepancies dealt with. As such, we wanted to pass along a little bit of this to help inform you in the creation and further development of the legislation, Bill 140.

The first point I really want to hammer home is that we have a serious issue with the removal of provincial oversight that could prevent the selling off of public assets. As bad as it is for our public housing tenants, many of them rely on social housing as a last resort.

About a week ago, I had a tenant with strong physical disabilities who called. They were asking for accommodation from their social housing landlord. They ended up calling back and letting me know that, after a lot of teeth-pulling and humming and hawing, they were able to get the landlord to deal with the duty to accommodate, which is a requirement under Ontario human rights legislation.

About two weeks ago, I had a tenant with really severe anxiety; they were screaming and yelling and threatening. This is what happens when they get into a crisis, and it's probably really horrible for their landlord. One of the stories that they had told me was that their landlord had provided some outreach services to them; they didn't just give them a simple eviction notice.

Two days ago, I had a tenant with really severe communication and focus problems. Just dealing with their call on the hotline took about an hour and a half, just to get the issue out. But again, throughout the call, you heard that they were a social housing tenant and that they had gone through this lengthy process of asking their landlord for repairs. In that scenario, the landlord had actually taken the time to work through it with them.

#### 1520

On our hotline, we hear about these tenants in private market housing, and basically, they just get evicted. They don't have people there to deal with them in this process. Oftentimes, the landlord just doesn't want to deal with the headache and gets rid of them. We know that there's a myriad of social housing problems, but for us, greater ease to do privatization isn't necessarily the answer, because for every horror story that we hear where something needs to be fixed in social housing, there are a number of stories of a social housing worker who followed the law and did their job properly or went the extra mile. You unfortunately don't hear this often in the private market. Tenants there generally have to rely on dwindling social services or the kindness of strangers or their landlord. Sadly, both of those are in short supply these days.

You can take a really quick look at eviction applications. There were about 70,000 eviction applications by landlords in Ontario last year. On February 23, they said that that wasn't good enough. They've asked the province to make it even easier to evict tenants. We would note that although, on our end, improper maintenance by landlords is far more common than tenants not paying their rent, you see less than 3,000 applications by tenants for maintenance issues. We don't necessarily think that offloading social responsibility onto a private housing provider is going to really help. We just think it's going to eventually lead to a lot of these tenants getting chucked and ending up on the streets.

One final note on privatization before I move on: We should point out that the current examples that we've



seen of privatization, not with widespread Ontario Housing but TCHC—they've been, pretty much, an unmitigated disaster. Fengate, Greenwin and DHS: They're well known amongst the tenants who call our hotline as the worst in terms of repairs, proper notification, rent calculations and managing disputes.

I think the best example of this was the fire at 200 Wellesley. When we heard about the fire, our office went right there. We went there with our guides on their rights and our phone number to help people. What we heard was the similar story that you hear in a lot of privately managed buildings: There were complaints about hoarding; there were complaints about repairs; there were a number of concerns expressed to the management, and it just went into some system and got lost, and no one really heard from it again. Then, what you ended up with was a massive fire and the city of Toronto retaking that building from a private property manager. We think this example and what the tenants had to go through in that building is really not something that you want to make easier to happen.

I want to go on to point 2. In looking at the legislation, we noted that there wasn't this element that we've been asking for for a number of years, which is independent reviews of decisions and the ability for the Landlord and Tenant Board to determine if rents are correct. In our experience, we believe that both of these are absolutely necessary.

I mentioned before Kafkaesque problems. Again, I want to tell you about something we hear on our tenant hotline every week. Every week, we hear—sometimes it's only one; sometimes it's 10 of these stories. I'll give you a simple example. A tenant pays their rent. The social housing provider somehow loses the confirmation that the payment has been made. The tenant is able to prove it and they show the landlord. Then the landlord loses that they've shown it, or forgets, or again, it goes through the system and doesn't end up in the proper place, and the tenant faces an eviction hearing. They paid their rent, everything's hunky-dory, and they end up in front of an eviction hearing and having to go to legal aid and use the system, and the housing provider ends up spending money on a paralegal to evict them. It's all simply because there isn't really an independent review system.

We see this all the time. We've seen it with rent subsidy calculations; we've seen it with disputes over tenants providing documentation, calculations over supplemental income, verbal agreements between a superintendent and a tenant. The fact of the matter is, what happens when this ends up in front of the board is as follows: If a social housing landlord applies to the board for an eviction for non-payment of rent, the board accepts, without question, what the landlord says is true. I've been to hearings and I've seen this happen. I've seen the legal aid lawyer show evidence that the decision about the rent is wrong or show that the landlord has not followed the Social Housing Reform Act, and the Landlord and Tenant Board can't do anything about it because they have to accept what the landlord says is true.

I want to be clear. I work on the hotline and this issue comes up again and again. It's one of the most common issues, that and repairs in social housing.

For the tenant, imagine what it's like on the other end. I'm sure some of you in your constituency offices have had to deal with this. You get tenants who are frustrated, angry, stressed out, and the tenants just can't believe that they're living in this kind of Alice-in-Wonderland situation, where whatever the housing provider says just goes. As such, we believe that independent reviews will give tenants a certain level of confidence, that they're not going to gum up the system with these ridiculous hearings that shouldn't even happen in the first place, and it will result in people not having to deal with this and not being improperly evicted at some points, which is what we've seen.

In terms of the Landlord and Tenant Board being able to determine whether rents are accurate or not, we're frankly kind of shocked that they haven't been given that power. We're shocked because in past enquiries, in past recommendations, it has been recommended again and again and it has been ignored again and again.

In the case of Al Gosling, you saw where the ignorance of that led to somebody dying. Al had the documentation; he was sound of mind; he just needed a system that didn't rubber-stamp things, but he ended up dying because those regulations were not passed before. We implore you not to make these kinds of similar mistakes again, as in the past.

The third point I'd like to get to is that we believe more must be done to help social assistance recipients work and live. We got training on social assistance and ODSP regulations last year. We were pretty shocked at how bad things were. You hear about it being a difficult system, but when somebody sits down and explains the pitfalls and traps, it was pretty eye-opening for us—the penalties, the clawbacks, the discretionarily enforced rules and benefits. It took about three hours for us to just get a basic understanding of the system. We can't imagine how a tenant without a law degree and a flip chart could really navigate that system reasonably and simply. As such, we believe that this legislation should, at a bare minimum, increase the non-benefit income threshold to 75% of the maximum of ODSP benefits before the recipients are subject to a rent-geared-to-income scale. It's a simple little regulation but we think it would go a long way to helping. It would alleviate a lot of headaches.

We're also really concerned, point number 4, that the Landlord and Tenant Board can now appoint employees to take over the functions of adjudicators. The main reason why we're concerned about this is that our office has had to deal with these employees on a weekly basis. Our staff have consistently challenged the employees when we're told incorrect information. We've fought with them just to get them to follow the law and accept documents they're supposed to accept, accept applications they're supposed to accept. We understand that training is going to vary across different people and different time frames



and different leadership. We understand it happens, but we really try to work with the LTB to fix it. It's not fixed yet, so we'd really be appalled to see regular staff given the power to throw people out of their homes.

I often tell people that when you're giving an eviction order, when you're denying somebody housing, it's not really the same as denying them the ability to rent a movie or denying them the ability to rent a car. It's housing; it's really important. It's really important to people's health, stress levels—the fact that a lot of these people have children. I know that the main aim of this is to speed things up in the system, but an eviction process, and 90% of the applications to the board are evictions, shouldn't really be something that's sped up. There are already 70,000 applications going out a year for eviction, so you know that the system is being used. Speeding it up, again, I don't think is the answer, especially with untrained staff, because after all, board adjudicators get trained for a reason.

The final point I'm going to make today before I wrap up is that we're really happy to see the long-term affordable housing strategy finally get put forward, but we think it needs to aim as high as possible. Many of the above issues aim to help do this. We think that will help clear up a lot of the problems that we see on a daily basis on our hotline in our organization, and they flow from the statements of interest, with the legislation achieving positive outcomes for individuals and families, addressing the need for a house.

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But, as such, we would also promote the aims of bringing this piece of legislation in line with international law. You've seen that there is currently a federal portable housing strategy, and it follows the principles of international law and both CERA and SRAC. They've also made recommendations, kind of a five-point thing that they would like you to include in the legislation to bring it in line with that: that it reference the right to adequate housing; that it has a reference to meaningful participation in civil society, key stakeholders and the vulnerable; that it has measurable goals and timetables for the reduction of homelessness; that it identifies and prioritizes the needs of groups that are particularly vulnerable; and that transparent accountability mechanisms are included, including the independent monitoring and review and an individual complaints mechanism.

We really feel that this piece of legislation could be part of a broader framework, with what's happening at the federal level and here. We think, rather than this kind of piecemeal system that I think you know can be a bit of a headache for tenants, it could be more streamlined and be more in line with an international system that cuts across. So we really implore you to consider those changes when you're drafting amendments to this legislation. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Dent. You must have timed your presentation, because you went 15 minutes, all the time allocated. So thank you for your presentation. Unfortunately, we don't have time for questions.

We're going to move on. I don't think our 3:30 presenter is here yet, and neither is the 3:45.

## HOME OWNERSHIP ALTERNATIVES

**The Chair (Mr. Lorenzo Berardinetti):** We do have present our 4 o'clock presenter, and it's Home Ownership Alternatives, Joe Deschênes Smith. I know you just arrived. Just take your time. I know you just walked in the door.

**Mr. Joe Deschênes Smith:** It's the end of the week, and people want to go. I'm glad I came early.

**The Chair (Mr. Lorenzo Berardinetti):** Yes. Just so you know, you have up to 15 minutes to present. If you finish earlier, the committee will ask you questions. Before you begin, just state your name for the record, as it will appear in Hansard. Thank you, and welcome.

**Mr. Joe Deschênes Smith:** Thank you very much. My name is Joe Deschênes Smith. I'm with Home Ownership Alternatives. We're a non-profit corporation that finances affordable housing developments, so our role is to invest in affordable housing developments by providing the lead dollars or the at-risk dollars for affordable ownership housing developments, and we support lower-income families to purchase units through an innovative second mortgage product. Essentially, we defer payment on our second mortgage until the resale of the unit, and at resale we participate in any increase in the value of the equity as an equal partner with the family.

In Toronto, Options for Homes—and actually in the Kitchener-Waterloo areas and others—have been the development consultants we've worked with. We've also worked with four other development consultants now in cities and towns across the province, from Kemptville, Kingston, Toronto, Pickering, Markham, Guelph, Cambridge, Kitchener-Waterloo and a couple of others.

Obviously, we are focused on ownership housing, and our model is focused on such. I realize that Bill 140 is largely about repealing the Social Housing Reform Act and regulations for the rental industry, so my comments will be quite brief and specific to a couple of areas within the bill.

(1) Secondary suites and amendments to the Planning Act: We applaud the inclusion of mandating policies around secondary suites at the municipal level. We do feel that having more availability for a broader product of housing in the market will be beneficial for lower-income families.

We would have liked more sections of the Planning Act to have been opened, and we would have recommended amendments to other sections, such as section 37, which often imposes charges on developments, including affordable housing developments such as our own, but maybe that's something you'll consider in the future.

(2) Local housing plans are included in the act as a new initiative, and we do support that. We do feel that local communities are best positioned to make decisions about the housing mix and the housing that's necessary in those communities. We hope that the regulations, if you



amend the bill, would mandate that those plans look across the silos in municipalities. Oftentimes, there is an affordable housing officer or service manager who will have responsibility for an affordable housing plan, but no influence on the planning department, which may impose onerous costs and obligations on any project, including affordable housing, or permitting offices, development charges and finance offices etc.

We'd also like to see a better balance in the weighting of responsibilities for putting together those plans. We see that the service manager and the municipal government have, I think uniquely, all the responsibility. We really feel that in each community, there is a broad and very strong housing sector that should explicitly have a role in developing those plans. They do bring the expertise and the initiative, I think, to really bring those forward.

That goes into the third point I had in my presentation about the balance between community and government direction. Even a few weeks ago, the province released a partnership report to support not-for-profits. It had a whole slew of recommendations about strengthening the role of non-profits and co-operatives in the province, how it's one of the second-largest economic sectors in the province. Again, I hope this bill will reflect that non-profit housing providers, whether they be rental or ownership, such as our own, and co-operatives will have a much stronger role in the development of local plans and also in the province's overall implementation of its affordable housing strategy.

The last piece I want to talk about is innovation and creativity. I think most innovative housing projects—and I would count our own model within that, I think not modestly, because we have supported many thousand families. Oftentimes, it was thinking outside the box. I hope, when you're looking at the clause-by-clause of this bill, that you'll look for opportunities to encourage municipalities or, where the province is setting the direction, to put in innovative features.

If you look on the fifth page of my presentation, just to give you an example of the innovation, here's a standard \$200,000 home. The first column would show you the income, the breakdown of how you would finance that with a down payment of 5%, and the first mortgage—and you require a \$60,000-a-year mortgage. This is using across-the-board assumptions that are fairly standard in the market. On the far right, you have an example where, with our model, we basically defer the profit and the development and provide a second mortgage of \$30,000 that's payment-free. The affordable housing program that the province and federal government have provided is 10%, \$20,000; then \$10,000 of a deferral of development charges. There, you end up with a family with \$47,000 being able to purchase a home. For many families that's a huge difference, and it does create the opportunity for them to own. It fits in with your poverty reduction strategy and helping families to build equity. I hope that kind of innovative thinking is something you'll consider.

The last piece I put in my report: I have attached a submission we made in January with respect to surplus

government land to the Ministers of Infrastructure and Municipal Affairs and Housing. We hope the province would consider that in their infrastructure plan coming up in the spring. We think it would lead to a low- or no-cost alternative for the province to, again, foster some innovative thinking in the housing field.

I didn't note the time and I hope I haven't gone over. Thank you for having me here today.

**The Chair (Mr. Lorenzo Berardinetti):** There's about eight minutes, so two minutes per party. We'll start the questions with the PC Party this time. Ms. Savoline.

**Mrs. Joyce Savoline:** I, too, thank you for being here today and for enlightening us on this opportunity that we have with this act. I'm most interested in your number 3 point, and that's the balance between community and government direction. I know that there is some angst in the co-op housing community, especially that sometimes the rules that are put in place are almost set up to make the whole thing fail. Then the heavy hand comes in and takes whatever power they have to run their own organizations. Do you feel that this part of the act should just be left out and should be managed the way it's managed right now?

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**Mr. Joe Deschênes Smith:** I am familiar—

**Mrs. Joyce Savoline:** You brought it up.

**Mr. Joe Deschênes Smith:** I brought it up and I'm happy to talk about it.

I'm not a lawyer so I'm not getting into drafting pieces—that would be difficult.

**Mrs. Joyce Savoline:** I don't want the wording; I just want the intent.

**Mr. Joe Deschênes Smith:** I think what I've said here is that there needs to be a better balance. Our organization is a member of the Co-operative Housing Federation of Canada. I'm very familiar with what's happened in the courts recently. I think it's unfortunate that we didn't have a situation where partners treated each other as partners in moving forward, and I think that's what I was trying to get at in my submission.

Governments are not the only ones that are running and delivering housing in this province. Actually, ONPHA, the Ontario Non-Profit Housing Association, has 700 or 800 members, and I'm sure Harvey can tell me how many members they have in the co-operative federation—in the hundreds. They're really delivering the affordable housing on the rental side and agencies like ours are doing a lot on the affordable ownership side. Those partners need to be respected as full and equal partners.

So where there are pieces of the legislation where maybe the authority to make unilateral decisions has been strengthened for service managers and others, maybe those could be moderated a bit.

I'm loath to say, yes, the province should make all the decisions because they're even more removed to a certain extent from the local decisions. You in your past role municipally would know the local housing facilities locally better than someone in—



**Mrs. Joyce Savoline:** We did it best, yes, but you're saying don't take this authority away from the individual co-ops because they are running their organizations according to their own unique issues.

**Mr. Joe Deschênes Smith:** I think so, yes.

**Mrs. Joyce Savoline:** Okay.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We're going to move on then to the NDP. Ms. DiNovo.

**Ms. Cheri DiNovo:** Thank you for that. I also second what my colleague Joyce has said about that and of course the co-op submissions that we've heard already. Thank you for your good work. I'm one of the recipients in my riding, with Options for Homes up on Dundas Street that has just gone up, and we're really delighted that it's part of our mix.

Whatever this province can do to make your job easier is I believe what we should be doing. That's just a slant of the New Democratic Party.

In my own efforts to get more affordable housing in my area, what I found most often, however, has been zoning problems with the city, quite frankly, real intransigence around changing zoning where affordable housing could go. I'm wondering if you could maybe comment on that.

Obviously if there's provincial land available, that should also be made available, but ultimately the money flows to the cities and that's where we're often finding a logjam—surprisingly, sometimes. If you could comment on that, that would be great.

**Mr. Joe Deschênes Smith:** Our experience has been that our affordable housing projects are not treated any differently when it comes to the planning process as any for-profit development, quite frankly, and it's a bit disappointing because we often work with other parts of municipal government.

I'll use the example here in the city of Toronto where the Affordable Housing Office was able to work with us and secure a deferral of our development charges for 10 years. That was worth \$3 million in direct affordability for families and helped 300 families buy at the building in your riding.

But at the same time we're working with other parts of the city administration, particularly in planning, where I would say roadblocks were put up that I don't think were pursuing important public policy. They were just what they do with every single development and they were treated that way.

I don't know if in Bill 140 you have the latitude to change anything in the Planning Act to address that. I put in my deputation that I wish you could. But it is clear—and many municipalities do work hard to help us out, and I do know many of those planning departments are overwhelmed, but I do wish that there was more of a link between the various departments and a prioritization on some of these issues.

**Ms. Cheri DiNovo:** We're opening up the Planning Act, so hopefully we could also do something around that.

**The Chair (Mr. Lorenzo Berardinetti):** I'm going to have to cut short that point—

**Mr. Joe Deschênes Smith:** I'm sorry; I went on.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move to the Liberal Party. Mr. Zimmer.

**Mr. David Zimmer:** Just two quick questions so I understand it. Where does the mortgage money come from for the HOA mortgages? For instance, on the chart, the \$30,000, who supplies that liquidity or capital?

**Mr. Joe Deschênes Smith:** That represents what would normally be the profit, essentially. We invest in an ownership building built at the low end of market. We put the at-risk dollars in, and the family is expected to finance the cost to build that unit. Just like any other developer, the difference between cost and the true market price is the normal developer profit. We don't take that profit out at sales closing; we provide a second mortgage to the family that is payment-free—no interest, no capital payments—until they resell. At that point, they pay us back our share of the home, and it gives us the funds to then—

**Mr. David Zimmer:** So they live in the place for 10 years, or 30 or whatever, and they move. They pay back the principal amount of the mortgage—

**Mr. Joe Deschênes Smith:** That's right.

**Mr. David Zimmer:**—plus the accumulated interest over the years?

**Mr. Joe Deschênes Smith:** What we do is a shared appreciation mortgage. Whatever the appreciation in the value of the home, we would get the equivalent increase in our mortgage. In this case, let's say in the middle column here, the family owns \$170,000 worth of this unit, and HOA has \$30,000. If it's sold at \$300,000 in 10 years—so we had a 50% increase—then they would pay us \$15,000 on top of our \$30,000 second mortgage, as a 50% increase. They would have realized the difference, which would have been—what?—\$75,000 or \$80,000. Sorry, I'm running these numbers off the top of my head.

**Mr. David Zimmer:** I understand.

**Mr. Joe Deschênes Smith:** Basically, our second mortgage is kind of like sharing the equity with the family. If the value of the unit goes up, they benefit to the proportion of their share of the unit, and we benefit, too.

Of course, our funds go back into a non-profit entity, and that is our working capital to then invest in our next project. We started with one project 12 years ago that Options for Homes did, without support, because we didn't exist—allocated us those mortgages. That has been reinvested over the years to date now where we have \$50 million in assets.

Right now, we have over 1,000 units of housing that we either have in pre-development or on the market. So we are growing—

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. I'm going to stop it there. Thanks for your presentation. Thank you for coming out.

BEECHWOOD CO-OPERATIVE  
HOMES INC.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the next presentation. We have Beechwood Co-



operative Homes Inc. Thank you for coming out. If you could just state your name for the record.

**Mr. Scott Piatkowski:** Certainly. My name is Scott Piatkowski, and I am here on behalf of Beechwood Co-operative Homes, of which I am the community coordinator.

I can begin?

**The Chair (Mr. Lorenzo Berardinetti):** Yes. You can go up to 15 minutes.

**Mr. Scott Piatkowski:** Yes, understood.

Mr. Chair, members of the standing committee, thank you very much for the opportunity to address the standing committee today on the important subject of Bill 140, the proposed Housing Services Act.

As mentioned, I am the community coordinator of Beechwood Co-operative Homes, and I'm speaking to you today on behalf of the 106 members and more than 150 children living in that co-op.

By way of historical context, the last time I was in this committee room was actually in November 2000. I was here testifying against the Social Housing Reform Act, which, as you will recall, downloaded housing to municipalities and imposed rules on both service managers and housing providers. I've kind of come full circle.

As you would expect, we are very grateful to see the end of that particular legislation. We are anxious that the legislation that replaces it address some of the key deficiencies in the SHRA.

Beechwood Co-operative Homes is a 78-unit town-house community located in the northwest corner of Waterloo. With its first members moving into their units in 1994, it was one of the very last housing co-ops built under the auspices of the Jobs Ontario Homes program.

Like all housing co-ops, we are very proud and fiercely protective of our independence and autonomy. We feel that we have earned the right to manage our housing by doing so effectively over the past 16 years through our elected board of directors.

Co-op members are expected to be involved in the community, and the majority of them are in some capacity. On February 24, for example, over two thirds of our members attended our annual general meeting. This two-hour meeting included approval of our audited financial statements, election of new directors, passage of a new parking policy and recognition of volunteers.

1550

While I could talk about the co-op all day, due to time restrictions, I would instead invite members of the committee who are curious to visit our website at [www.beechwood.coop](http://www.beechwood.coop), and you will find out more about us.

The board members and staff of Beechwood Co-operative Homes have lived under the Social Housing Reform Act since 2001. As we thought it would, it has served to undermine some of the very qualities that make big co-ops such a great place to live. While we continue to question the rationale for downloading housing to the municipal level, uploading does not seem to be on the table at this time. Thus, I will focus my remarks on trying

to improve the legislative and regulatory environment for housing co-ops and their members.

First—

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Please continue.

**Mr. Scott Piatkowski:** Okay. I'll talk to Gilles later.

First of all, I want to add my support and the support of Beechwood Co-operative Homes to the positions put forward by the Co-operative Housing Federation of Canada in their presentation last week. I won't repeat any of their points, but I did want to say, for the record, ditto.

What I do want to speak to is the need for the proposed legislation to have adequate provisions for the minister to review service manager decisions. It is my understanding that several municipalities have spoken in favour of the removal of this power from the legislation, but in my view, that is all the more reason that that power should be maintained.

Note that I say this as someone who manages a co-op that has a very amicable relationship with our own service manager. But not every housing co-op is so lucky, and the uncertainty of municipal election cycles leaves housing co-ops vulnerable to the whims of elected officials who may or may not understand the value of community-based housing and resident control of that housing. The provincial interest in maintaining a long-term supply of affordable housing survived downloading and it must also survive in the Housing Services Act.

As well, I understand that at least one service manager is calling for the removal of all references to the requirement that they have "regard to the normal practices of similar housing providers." I would submit that this requirement is essential. Why would the province want to enable any municipality to ignore the long-established best practices of housing co-ops and other housing providers?

Another area of concern that we have is that the proposed legislation does not address the matter of surplus sharing. You may be aware that under the SHRA, housing providers can be required to remit half of any annual surpluses to their service manager. This encourages reckless year-end spending to avoid surpluses and discourages co-ops from making extra allocations to the replacement reserves, which in most cases are badly underfunded. Many municipalities have, in fact, waived their right to seize surpluses if housing providers use that money to top up their reserves, but I would submit that this right should be removed from the legislation entirely.

To compound this concern, the proposed legislation would allow municipalities to treat a deficit in any given year as a triggering event and take control of the housing co-op in question. This strikes me as unnecessarily harsh. It ignores the fact that unexpected expenditures may be required from time to time, and that housing providers with an accumulated surplus may run a deficit in any one year without damaging their ability to function. I cannot understand why such a severe penalty would be necessary, particularly when, as I just noted, housing pro-



viders in some municipalities are still being punished for running a surplus. So they're punished for running a surplus, punished for running a deficit.

Lastly, I would be remiss if I came to Queen's Park to talk about housing and neglected to talk about the critical need to increase the supply of affordable housing in the province. I am pleased to join with other witnesses who have called for amendments to the bill that would guarantee a right to adequate housing in this province. Making a commitment to adequate housing as a human right and setting clear goals and timelines to eliminate homelessness are key parts of that, but such a commitment is virtually meaningless without an accompanying budgetary allocation.

This week's provincial budget was missing any significant commitment to affordable housing. Other than spending the last part of the infrastructure funding under the social housing renovation and retrofit program, half of which is federal money, the budget actually made no commitment at all to spending money on affordable housing. With the pending expiry of the federal-provincial affordable housing program, the very least that we would have expected would have been an unequivocal promise to renew that. Sadly, both the provincial and federal budget released over the last two weeks were lacking in a firm commitment on this issue.

No one in the affordable housing movement would disagree with the provincial budget's contention that "The federal government should be a long-term partner in funding affordable housing" and "A long-term, fair-share commitment from the federal government would help to ensure that Ontario families have access to housing." But in the absence of that kind of commitment at the federal level and with the uncertainty of the current federal election campaign, Ontario needs to make clear its own support for affordable housing with an affordable housing strategy, whether that strategy involves the federal government or not.

Thank you very much for the opportunity to present my views to this committee. I trust that the committee and Minister Bartolucci will take the testimony heard today and last week into account when amending the bill in preparation for third reading.

**The Chair (Mr. Lorenzo Berardinetti):** We have about three minutes, so we'll start first with the NDP—no, she isn't here. We'll go to the Liberal Party just for a minute. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thank you, Mr. Piatkowski, for your presentation and your commitment to co-op housing. Your story that we heard today is somewhat similar to some of the other folks who have been advocating for changes to make co-op housing more achievable and for the long term. I don't have any specific questions, but thank you very much for being here today.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the PC Party. Ms. Savoline.

**Mrs. Joyce Savoline:** Mr. Piatkowski, thank you for being here today. I don't have any questions either but just so you know, we've heard the message from several

deputations that have been consistent, several of which you have made today and we will be seriously looking at. Thank you for being here.

**The Chair (Mr. Lorenzo Berardinetti):** That completes your presentation.

If the committee could just give me a moment.

We're going to have a few words from our committee clerk.

**The Clerk of the Committee (Mr. Trevor Day):** I guess the Chair is looking for the committee's direction. We had an individual who had requested after the deadline to speak, and the Chair, because we had spots, had said that was acceptable. Earlier in the week, we received a call from this individual, who said that they no longer wished to speak.

I guess what was lost in the conversation was that that individual had made arrangements with someone else to make a presentation with them, and that individual was under the impression that it was still on; they were never notified that this individual had contacted us to cancel.

Where we stand now is we have someone here who isn't on the list and, according to our office, the individual who had contacted us had cancelled. I guess the Chair is looking for the committee's direction as to what we should do.

**Mr. David Zimmer:** This will be the last presenter, then?

**The Clerk of the Committee (Mr. Trevor Day):** Yes, and my understanding is that the individual is—

**Mr. David Zimmer:** I move unanimous consent to hear from the person.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** Chair, the only issue—I'm happy to hear from them—is that the debate could collapse, and we'll have to go to a vote.

1600

**Mr. David Zimmer:** Yes, of course, with the understanding that there's a vote coming up and you may be halfway through your presentation and we'll have to go and vote.

**Mr. Bas Balkissoon:** We'll hear her until the vote is called.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Ms. Savoline?

**Mrs. Joyce Savoline:** My only proviso is that it's with respect to Bill 140.

**The Chair (Mr. Lorenzo Berardinetti):** Yes, and if the bells start ringing we suspend and we will adjourn.

DR. JANE PRITCHARD

**The Chair (Mr. Lorenzo Berardinetti):** Good afternoon, and welcome. If you could state your name for the record.

**Dr. Jane Pritchard:** My name is Dr. Jane Pritchard, and I'm a physician who has worked for 20 years in Toronto Community Housing buildings and other community housing buildings. I was asked by the two tenant



reps with whom I've been working unofficially to come and make some input, so I'll do that. I'll not take long. Thank you. I understand accommodating the irregularity.

Anyway, I address you as a fellow Canadian originally from northern Ontario who has been working as a family physician in Toronto for the past 22 years. Before that, I worked elsewhere in Australia and Bangladesh. Since 1990, I have been holding a weekly clinic at two Toronto Community Housing buildings originally intended for seniors here in Toronto in southwest Scarborough, but I also visit many elderly or disabled patients at home across the city.

I'm here to relay my observations to you. You are the provincial legislators who also represent the many frail, troubled, feisty and gifted folks on whose behalf I'm speaking.

I want to convey to you what is happening to occupants of what is currently called social housing who live in high-rise buildings of mostly bachelor units with dwindling social supports.

In the early 1990s, there were actually housing employees who held office hours a half day a week in those buildings. The case workers were approachable, competent and able to access community resources, such as home care, to enable tenants to cope. Their positions were eliminated in 1995 when budget cutbacks flowed from the provincial to the municipal level.

It appeared to me, in the years following the withdrawal of this service, that vulnerable tenants became more socially isolated and safety concerns became rampant. There was no longer a large population of well seniors to look after those more frail. New younger tenants who moved in often needed housing urgently because of mental health issues, just as some of the aging tenants developed dementia or depression. In this setting, it was not surprising that alcohol and substance abuse, always present, caught a toehold.

Perhaps some of the honourable members have experience of mental illness or substance abuse in your own families. I certainly have. Both can strike those of any socio-economic background and strip individuals of their self-worth.

What do we see in these unsupported high-rises of social housing? Women afraid to take the elevators because they will be sexually harassed; men afraid because they will be extorted of their veterans' pension cheques. Both will be intimidated into not reporting. Women who stop using their balconies because the new male neighbour leers at them from his; a previously urbane, successful businessman who, with the advent of dementia, begins to stalk his female neighbour. Women and men who had something of a clutter problem and, with the progression of dementia or depression, become virtually buried in their hoarded belongings. One woman had a stroke and sank down onto her pile of cushions and was found four days later.

Then, the plagues of bedbugs, which is a story in itself. Who will help frail seniors bag their clothes, throw out their mattresses, empty their cupboards? And what

about the adamant tenants who refuse to allow any stranger in to do this preparation, disbelieving their part in the infestation?

As part of the mental health project of Toronto Community Housing—and I was part of their mental health framework, called in as a community representative; I really have nothing officially to do with Toronto Community Housing—we approached 84 community agencies to come up with an on-site supportive housing project and funding, and they were and are spread too thin to respond.

Do you know which community institutions spend the most time in the buildings? The paramedics and the police. These crisis services are called in several times each day to respond—often inadequately, to their own frustration—to a continuous condition of malaise that is, one might say, due to anti-social housing. If we are talking about saving taxpayers money, why not invest in supportive housing and let the police and the paramedics handle the unpreventable emergencies and then harness the talents and energy and wisdom of the tenants themselves? If these buildings can be seen as safe places to live and recuperate, then the whole paradigm shifts. If there were on-site training in trades or computers, for example, some would be able to get work and move on.

There is a wealth of experience in every building in the older population, from university professors to linguists, to plumbers, to social workers, to survivors of every sort. They can be mentors with the right sort of supportive framework in place. In fact, this is happening right now at 682 Warden; the tenant rep who cancelled was from one of those buildings.

Even very ill people can contribute. A former pilot living in social housing did extensive research into bedbug treatments across the world in the months before he passed away, and this was applied to the situation in his own building.

Now, back to your and my responsibility to lower-income, aging Ontarians. There is much talk about aging at home. Seniors, in an earlier era supported by an extended family, want to live independently now as long as they can.

There's a great difference between housing people and what I will call homing people. I would define "homing" as providing a safe, comfortable physical space for individuals within a building that functions as a community. Housing strategies imply that providing a roof over people's heads is enough.

What use is affordable housing if there are no supports to keep people in difficult circumstances housed? If the mail piles up, who will go through it and help them pay their rent so they're not evicted to perish in a freezing stairwell, like Al Gosling? Who will organize a patrol of the elevators, or a vertical Friends on Guard, or make sure an at-risk senior has food at hand, or gets his health card replaced? The business of keeping vulnerable tenants housed must include mandating the social support services they need to stay housed.

If the housing stock is privately owned and managed, why would landlords go the extra mile, or 10 miles, for



their more difficult-to-house tenants? It would be easier to let the eviction process take its course and let them find shelter elsewhere.

Honourable members, there is, I predict, a difficult 20 years ahead, when many 65-year-olds will be 85 years old and living in poverty. We are at a crossroads. You have the power to make the changes so they can age with dignity at home. As Canadians, look after the most vulnerable. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll try to get some questions in. First we'll start with the Liberal Party. Mr. Rinaldi.

**Mr. Lou Rinaldi:** Thank you very much. I'm delighted that we added you to our schedule so that we could hear you. You're certainly committed to the issue.

I just wondered if you could offer some specific amendments. You talk generally about what we need to do. I'm not sure there are too many people around this table, at least on this side, who would disagree with you. I think that in 20 years, I'll probably be close to that group that you just mentioned toward the end.

Can you, if not today—

**Mrs. Joyce Savoline:** Then you have a conflict.

**Mr. Lou Rinaldi:** That's okay. I'll accept the conflict.

If not today, maybe you could supply us before next week with some specific amendments that you'd like to see to the legislation that we have before us. I will leave it at that, unless, very briefly, you could make a comment.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move on to Ms. Savoline.

**Mrs. Joyce Savoline:** Thank you, Dr. Pritchard, for being here today. I think the things that you have talked about are some of the things that we were hoping to see as part of a plan that really didn't surface. What we have here is a report that talks about handing over the detail that you're talking about establishing to each local area, so that they will create the plans for their own municipalities. For some reason, this report did not cover the kind of situations that you're talking about.

I, too, would be pleased to see in writing the things that you have mentioned today, but I think your job will become bigger for you and those people who are concerned with the issues that you have, because you will be presenting them to individual municipalities across the province as they create their own local plans around this report.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Thank you—

**Mrs. Joyce Savoline:** It was an opportunity missed, I guess is what I'm saying.

**The Chair (Mr. Lorenzo Berardinetti):** You can leave your notes with the committee clerk. Thank you for coming out, Dr. Pritchard.

That completes the presentations. We're adjourned until Thursday, April 7, 2011, at 9 a.m. Thank you.

*The committee adjourned at 1610.*







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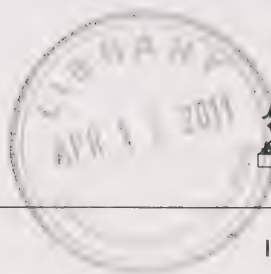
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# Legislative Assembly of Ontario

Second Session, 39<sup>th</sup> Parliament

# Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

## Official Report of Debates (Hansard)

Thursday 7 April 2011

## Journal des débats (Hansard)

Jeudi 7 avril 2011

### Standing Committee on Justice Policy

Strong Communities through  
Affordable Housing Act, 2011

### Comité permanent de la justice

Loi de 2011 favorisant  
des collectivités fortes  
grâce au logement abordable

Chair: Lorenzo Berardinetti  
Clerk: Katch Koch

Président : Lorenzo Berardinetti  
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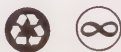
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 7 April 2011

Jeudi 7 avril 2011

*The committee met at 0902 in committee room 1.*STRONG COMMUNITIES THROUGH  
AFFORDABLE HOUSING ACT, 2011LOI DE 2011 FAVORISANT  
DES COLLECTIVITÉS FORTES  
GRÂCE AU LOGEMENT ABORDABLE

Consideration of Bill 140, An Act to enact the Housing Services Act, 2011, repeal the Social Housing Reform Act, 2000 and make complementary and other amendments to other Acts / Projet de loi 140, Loi édictant la Loi de 2011 sur les services de logement, abrogeant la Loi de 2000 sur la réforme du logement social et apportant des modifications corrélatives et autres à d'autres lois.

**The Chair (Mr. Lorenzo Berardinetti):** Good morning. Let's call this meeting to order. Just to start here, this is the clause-by-clause consideration of Bill 140 and this is the Standing Committee on Justice Policy on Thursday, April 7, 2011.

Just before we start, I want the committee to know that Ms. Savoline is stuck in an elevator and she's on her way. We don't know how long it will take, but I just wanted to ask for unanimous consent to hold down the first three sections of the bill, 1, 2 and 3. There are no amendments here, but as a courtesy to hold those down and go straight into schedule 1 and deal with the amendments that are there. Is that okay?

**Ms. Cheri DiNovo:** So where are we going to be starting?

**The Chair (Mr. Lorenzo Berardinetti):** We would be starting with the first NDP motion.

**Ms. Cheri DiNovo:** Okay.

**The Clerk Pro Tem (Mr. Trevor Day):** Because sections 1, 2 and 3 are more the enacting, with the consent of the committee, we're going to move to the schedules to deal with them first. So we'd be starting with section 1 of schedule 1.

**Ms. Cheri DiNovo:** Which motion are we dealing with?

**The Clerk Pro Tem (Mr. Trevor Day):** Right now, there is no amendment to that particular section. The first amendment deals with section 2 in schedule 1. So once we get through section 1 of schedule 1, then we'd move to section 2.

**Ms. Cheri DiNovo:** Okay.

**The Chair (Mr. Lorenzo Berardinetti):** So we'll start with schedule 1, section 1, and I'll ask if there's any debate on schedule 1, section 1.

**Ms. Cheri DiNovo:** Again, could you direct us to which amendment, which motion—

**The Clerk Pro Tem (Mr. Trevor Day):** There's no amendment to that section.

**Ms. Cheri DiNovo:** Okay.

**The Clerk Pro Tem (Mr. Trevor Day):** Right now, currently, there's no amendment to section 1, schedule 1.

**The Chair (Mr. Lorenzo Berardinetti):** We're only going to focus on the schedule.

**The Clerk Pro Tem (Mr. Trevor Day):** We'd be actually voting on whether to carry that section in the schedule.

**The Chair (Mr. Lorenzo Berardinetti):** Is there any debate? Ms. Cansfield?

**Mrs. Donna H. Cansfield:** I'm just getting clarification.

**The Chair (Mr. Lorenzo Berardinetti):** Again, we're dealing only with the schedules for now until either Mrs. Savoline or Mrs. Elliott gets here, as a courtesy. So we would start, then, with the sections inside the schedule. There are no amendments to section 1 of the schedule. Is everyone clear? We'll get to schedule 1, section 2, in a moment, but I just wanted to deal with schedule 1, section 1. There are no amendments to this section.

Shall section 1 of schedule 1 carry? All those in favour? Carried.

Now we go to schedule 1, section 2. This is our first amendment. It's an NDP amendment. It's on page number 1. Ms. DiNovo.

**Ms. Cheri DiNovo:** I wanted to start by quoting from a letter from a special rapporteur from the United Nations—

**The Chair (Mr. Lorenzo Berardinetti):** Sorry, I have to interject.

**Ms. Cheri DiNovo:** Shall I move the amendment first?

**The Chair (Mr. Lorenzo Berardinetti):** Yes.

**Ms. Cheri DiNovo:** Okay. Fair enough.

I move that section 2 of schedule 1 to the bill be amended by adding the following definition:

"'accessible housing' means housing that accommodates the needs of persons with disabilities, as required by the Human Rights Code and by the Convention on the Rights of Persons with Disabilities, based on the



principles of identifying and eliminating obstacles and barriers to accessibility and of providing access to appropriate support services for community living.”

**The Chair (Mr. Lorenzo Berardinetti):** If you want to speak to it—

**Ms. Cheri DiNovo:** Absolutely. I wanted to quote from a letter from a UN special rapporteur on housing. It’s not every day that a provincial government is found in contradiction to the obligations under international human rights law, but that is what the rapporteur is saying—without amendments that indicate very directly and speak to the issue of housing as a human right. This is one of them; it’s not the only amendment. This letter, and I’m happy to copy it for everyone, essentially says that without these amendments, Ontario will be in defiance of the UN’s codes on human rights, international human rights law, to ensure the right to adequate housing.

I think that’s embarrassing; I think it’s outrageous. Not only are we, then, a national embarrassment, since we spend less on housing than in any other province, but we also become an international embarrassment. That is essentially why this amendment was tabled, and there are a few others along the same lines. And, of course, it was asked for by a number of our stakeholders, from registered nurses, a recommendation from a recent Senate report headed by Art Eggleton, and many others. So that is the backdrop to this.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mrs. Donna H. Cansfield:** We will not be supporting this particular motion. We believe that accessibility is proposed to be included in the regulations; that accessibility for housing for persons with disabilities is also addressed through the Accessibility for Ontarians with Disabilities Act, 2005; and that the Human Rights Code has specific provisions relating to accommodations with persons with disabilities, including the right to equal treatment with respect to the occupancy of accommodation and the right to freedom from harassment by landlords, etc.

We also know that, if passed and once approved, there is a housing policy statement, and accessible housing will be addressed, among other considerations, in that policy statement if, in fact, it’s approved.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Ms. Cheri DiNovo:** Again, this is one of many amendments, as you have in front of you, from the New Democratic Party along the lines of the UN recommendations. Certainly, again, I would direct the committee’s and other stakeholders’ attention to the fact that we are in breach of United Nations law in this province.

Despite what you’ve just heard, part of the problem with this entire bill is that there are no targets. There’s not one dollar for new housing in this bill; there’s not one new rent supplement in this bill; there’s not one new unit in this bill. So this is a framework for a housing bill, but it’s not a housing bill, and that’s essentially what has

been picked up by the United Nations, who also would want a recounting.

**0910**

Miloon Kothari says, “I also intend to keep my colleague, Raquel Rolnik, the current special rapporteur on adequate housing, informed of these developments. She will also be keenly following progress on this bill with a view to including it in the follow-up report she will be preparing on my mission to Canada for the UN Human Rights Council on the implementation of my recommendations.”

This letter—from the United Nations, no less—is available to all who would like to see it.

It’s a very sad day when we vote down this amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

All those in favour of the amendment? All opposed? The amendment does not carry.

We’ll move, then, to the second motion, which is an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 2 of schedule 1 to the bill be amended by adding the following definition:

“‘affordable housing’ means housing that is available at a cost to a household, after taking into consideration any financial assistance available to the household, that does not compromise the household’s ability to meet other needs;”

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** Absolutely. I point out the very simple fact that nowhere in this bill are the words “affordable housing” mentioned. This is presumably a housing plan, developed quite late, after months of deputations, yet we have no definition of affordable housing. We have no affordable housing in the bill, literally and figuratively speaking.

Certainly, this is an amendment that has been asked for by many stakeholders, including CERA, and in light of the UN censure here, it’s very important.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate?

**Mrs. Donna H. Cansfield:** We will not be supporting this motion. The proposed definition is inconsistent with the definition of affordable housing which is most commonly used in the housing sector now. This inconsistent definition of affordability actually does not provide an objective test of affordability, and it would be extremely difficult to measure, so we will not be supporting this amendment.

**Ms. Cheri DiNovo:** With all due respect, it would be interesting to know, then, what the government’s definition of affordability is, because it’s not in the bill. There is no definition of “affordable.” It’s difficult to know, for housing stakeholders, how to proceed when there’s no clearly defined affordable housing concept.

Again, this speaks to the lack of targets and deadlines, the lack of any real housing being covered by this bill,



and speaks to the fact that this government is in violation of United Nations human rights conventions.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? We'll put it to a vote.

All those in favour of the amendment? Opposed? That does not carry.

The next amendment, number 3, is an NDP amendment. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 2 of schedule 1 to the bill be amended by adding the following definition:

"'Crown ward' means a person who is a crown ward under part III of the Child and Family Services Act;"

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** Yes. We heard very clearly and quite movingly, I think, a deputation from the Provincial Advocate for Children and Youth, who has indicated that Bill 140 provides an opportunity to enshrine simple changes that protect Ontario's children in law. These are about definitions, obviously, at this stage of the game. Later on, you'll see these fleshed out in other amendments.

Crown wards are definitely one of the more vulnerable populations in Ontario and need special attention. That's what we're asking for in this amendment, in light of what was asked for not only by the Provincial Advocate for Children and Youth, but by other youth advocates.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mrs. Donna H. Cansfield:** Again, we will not be supporting this motion. The reason is that specifying crown wards would be fundamentally inconsistent with the approach in the housing strategy and Bill 140, which actually seeks to recognize the needs of local service managers.

There's absolutely nothing in this bill that would preclude a local service manager from actually making those priorities in their local situations, so we will not be supporting it. They actually can put crown wards in, seniors, whomever, but we believe very much that it's a local decision.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mrs. Joyce Savoline:** I'm going to be supporting this because I think it is in the provincial interest to recognize crown wards and youth, in particular, who are struggling, at risk and challenged, because it is the responsibility not only of the province but of the local municipalities. I think we should shoot an arrow across their bow to let them know that the province has a particular interest in making sure that the young people who have, for whatever reason, been put in this vulnerable position are recognized and will receive some recognition through this housing report—I know it's not really a strategy, but I think that, at local levels, there is some concern for youth who are at risk. That's why, in a later amendment, I use the word "youth" rather than specify "crown ward,"

because I think it's broader than just a crown ward. So I will be supporting this recommendation.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** After listening to the comments from the parliamentary assistant, it seems to me quite galling that, really, this ministry is walking away from its responsibility to make guidelines available to service managers, to even take an active role in directing any sort of housing policy. That's the problem with Bill 140, but it's rich in miniature around this issue of crown ward or anything else, for that matter.

If the ministry isn't going to step up in its role—and again I hearken back to the United Nations here—to actually give some directives regarding housing, then why do we have one? Why do we have a Ministry of Housing?

Again, a particularly vulnerable population: They were spoken to and we heard from them. These are young children who have gone through the system, who are still in school—we hope—who may not be in school, if they don't have housing, and all they're asking for is some priority and some direction from the housing minister, which clearly is not going to be forthcoming.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? I'll put the question: All those in favour of the amendment? Opposed? That does not carry.

We'll move on to the next one. On page 4, there's an NDP motion. If you could read that, Ms. DiNovo, I'd appreciate it.

**Ms. Cheri DiNovo:** I move that section 2 of schedule 1 to the bill be amended by adding the following definition:

"'right to adequate housing' means the right to adequate housing as guaranteed under international human rights law ratified by Canada, including the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities;"

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any debate?

**Ms. Cheri DiNovo:** Again, I draw everyone's attention—everybody should have a copy of this letter in front of them—to Miloon Kothari's letter from the United Nations talking about the potential breach here under international human rights law.

This is serious stuff; this is very serious. When the United Nations focuses on Canada, and Ontario in particular here in this letter, asks for amendments, says that without these amendments Ontario will be in breach of international human rights law, I think we, as a population, need to take this very seriously.

Again, like the first amendment, this fleshes that out. It asks for a very simple move on behalf of the housing ministry, and that is simply to really put their weight behind the right to adequate housing.

Again, if they're not willing to do that, one might ask, why have one? Why have a housing ministry at all?



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**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed. That does not carry.

That takes us to the question: Shall section 2 of schedule 1 carry? All those in favour? Opposed? That carries.

We'll move to schedule 1, section 4, and there's an NDP motion number 5.

**Ms. Cheri DiNovo:** I move that subsection 4(1) of schedule 1 to the bill be amended by adding the following clauses:

"(a.1) complies with Ontario's obligations to respect, protect, promote and fulfill the right to adequate and affordable housing within available resources and by all appropriate means;

"(a.2) ensures that housing that is both accessible housing and affordable housing is available to persons with disabilities;"

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** Again, we're hearkening back to the UN and what the province's obligations should be under UN charters, and this is part of that. This has also been asked for by CERA, another of our stakeholders, again in light of the fact that in Bill 140 we do not have this. So if this province is really going to be in contradiction to United Nations human rights law, then sadly, we in the New Democratic Party—and not the New Democratic Party alone, but housing stakeholders across the province and around the world—are appalled, and clearly that's the direction in which this government is taking us.

I expect that this will be voted down, as have the other motions regarding the same thing, which is a very, very sad day in Ontario and a very, very sad day for the 152,000 families who are waiting an average of 10 to 12 years or more for affordable housing, a very sad day for those who didn't get a rent supplement, didn't get a new unit of housing, a very sad day for those who have yet to see the bills promised in 2003 by Dalton McGuinty and the Liberals—a very sad day.

We are now the worst of the worst in Canada in terms of providing housing, and all we're doing here with these motions and amendments is trying to fight for some semblance of concern on behalf of the McGuinty Liberals.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further debate? None.

All those in favour of the motion? Opposed? That does not carry.

On page 6, the next amendment is a government motion. Mrs. Cansfield, if you want to read that in.

**Mrs. Donna H. Cansfield:** I move that clause 4(1)(b) of schedule 1 to the bill be struck out and the following substituted:

"(b) addresses the housing needs of individuals and families in order to help address other challenges they face;"

The rationale for supporting this motion is that the stakeholders felt the current language implies that individuals and families must be housed first and then receive any necessary supports in terms of service supports, so the language should be clarified to enable providing shelter and support services at the same time.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Shall the motion carry? All those in favour? Opposed? That carries.

We go to the next motion, which is number 7. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 4(1) of schedule 1 to the bill be amended by adding the following clause:

"(b.1) provides a housing benefit for all low-income families who pay more than 30 per cent of their income for rent;"

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** Yes, thank you, Mr. Chair.

Certainly this has been asked for by ACTO, Housing Network, Daily Bread Food Bank and others who have asked for a housing benefit for those who are on social assistance and those low-income families who, as we say, pay more than 30% of their income for rent, which has long been a standard held in this country. So, again, it's simply asking for the basics of any adequate housing policy.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mrs. Donna H. Cansfield:** We will not be supporting this motion, as the housing benefit is currently being assessed as part of the government's commitment to review social assistance and transform Ontario's benefit program. It would be premature to go ahead before that review has been completed.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Savoline.

**Mrs. Joyce Savoline:** I'll be supporting this. I feel that a housing benefit is something that adds to the emotional stability of a family's being able to carry on their normal, daily life without worrying about whether there's a roof over their head, being able to engage in meaningful employment, and being able to stay near support systems in a place where they can be supplemented for their rent. I think it's a far better way to go than to continue building more structures in places people have to move to, and away from the familiarity of their local community and support system. I think it's a good amendment, and I'll be supporting it.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** Certainly this government, which has tried to indicate to the public that it's interested in reducing poverty by 25% in five years, has had eight years to do something and in fact has done nothing. In fact, poverty rates are probably up 25% since they've been in government and show no abatement whatsoever, and we're now the child poverty capital of Canada and



one of the have-not provinces, as we all know. Certainly, this has been asked for by all anti-poverty activists across Ontario, and been asked for for years.

The fact that it's premature with five or six weeks left on the legislative timetable before an election after eight years in government seems a little rich, quite frankly, particularly to those families who are struggling on ODSP, \$1,000 a month, and those on social assistance, \$500 and something a month. Imagine trying to live in the city of Toronto and paying rent on that without a housing benefit.

Again, a very, very sad day for housing activists and for those who have to live in the province of Ontario and pay for housing. The situation has never been this bad since the Depression, and continues to grow worse under the McGuinty Liberals.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

I'll put the question. Shall the motion carry? All those in favour? Opposed? That does not carry.

Next is a replacement motion, 8R. Does everyone have 8R? It's an NDP motion. Ms. DiNovo, did you want to read it into the record?

**Ms. Cheri DiNovo:** Yes. There is a typo in this: This is clause 4(1)(b.2), not (b.1), schedule 1.

I move that subsection 4(1) of schedule 1 to the bill be amended by adding the following clause:

"(b.2) provides a housing benefit for all low-income individuals who pay more than 40 per cent of their income for rent;"

**The Chair (Mr. Lorenzo Berardinetti):** Did you want to speak to it?

**Ms. Cheri DiNovo:** Yes. Again, where we were talking about families in the last amendment, we're now talking about individuals who also pay more than 40% of their income on rent.

It's interesting to note that 50% of all tenants in Ontario now pay more than 50% of their income on rent. We're dealing with calamitous circumstances. Clearly, if you're paying more than 50% of your income on rent, the chances of ever owning a home, saving up for retirement or any of the above are virtually negligible. So again, we're talking about a housing benefit being an absolute necessity to being able to get off the social assistance rolls and an absolute necessity if this government is really serious, which clearly they are not, about doing something about poverty rates.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None?

I'll put the question. All those in favour of the motion? Opposed? That does not carry.

The next motion, on page 9, is an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that clause 4(1)(c) of schedule 1 to the bill be struck out and the following substituted:

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"(c) has a role for non-profit corporations and housing co-operatives and ensures that social housing is owned and managed on a non-profit basis;"

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** This speaks to a critical lack in this bill and a critical lack in the so-called housing policy of this province. What we're seeing here, and we're certainly seeing that in the city of Toronto these days, is a move to privatization of our public housing stock. Virtually every deputant who came before us asked that some provisions be made to ensure that public housing stock remains public: from co-ops, to TCHC, to others. We have to send a very clear message that this remains in public hands. If it doesn't, if it goes private, the chances of ever getting it back are extremely remote. Again, from just about every deputant we heard a call for this. This is a place for the housing ministry, we believe, to step up and to make it very clear that they're on the side of co-ops, non-profit housing and the public interest in non-profit housing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Savoline.

**Mrs. Joyce Savoline:** Yes, I'll be supporting this. I am concerned about the housing stock in the non-profit sector, and I think that this amendment moves some protection for that stock. I know that in the for-profit sector, the rules are so punitive, against small landlords especially, that we are fast losing units because they're just getting out of the business and nobody wants to take part in the kind of red tape and tangle that you have to go through and dance through in order to provide reasonable, affordable housing in small apartment buildings, extra units in a house and that kind of thing. It has been so punitive to small landlords that I think a move to protect the non-profit sector is a good one.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo, or—

**Ms. Cheri DiNovo:** I just wanted to praise Mrs. Savoline and Mrs. Elliott on this and other supports. It's an interesting day—I just want to point it out for the record and for those who are in attendance here—when the Progressive Conservatives are indeed more progressive than the so-called Liberals. So again, it's interesting to note, and we should certainly take this to heart.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Cansfield?

**Mrs. Donna H. Cansfield:** If I may, I would like to point out that not all social housing is currently operated on a non-profit or co-operative basis. By suggesting this, we would preclude the rent supplements that are paid to private landlords on behalf of those renters or low-income individuals. I'd just like to share that.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed? That does not carry.

We move, then, to page 10. This is a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 4(1)(c) of schedule 1 to the bill be struck out and the following substituted:

"(c) has a role for non-profit corporations and non-profit housing co-operatives;"



This is a technical motion. The current language in the legislation actually referred to co-operatives, and that was inadvertently used in the preparation and the drafting of the bill. We are just clarifying the term “non-profit housing co-operatives,” as set out in the Co-operative Corporations Act.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion or debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes, we're going to support this. But I wanted to point out that this in no way protects the housing stock that we have. So just in case there's any confusion on that score, it is just technical and the same problem exists.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed? That carries.

We'll move, then, to page 10.1.

**Mrs. Donna H. Cansfield:** Thank you, Mr. Chair—

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry; this is the NDP motion. It was an added—does everyone have a copy of it, 10.1?

Does everyone have a copy now? Okay, so it's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** Sorry; it obviously came in late last night, but it's something that I've recommended. I'm pleased to see it here.

I move that subsection 4(1) of schedule 1 to the bill be amended by adding the following clause:

“(d.1) requires a minimum of 10,000 new affordable housing units be built each year;”

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** Yes. Again, in light of the UN recommendations, in light of the absence of any new housing stock in this bill or any units or any new rent supplements; in fact, in the absence of any housing in this housing bill, we in the New Democratic Party want really to hold the government to account. This is something they promised way back in 2003 and have not delivered. Essentially, we're trying to hold their feet to the fire and say, “Let's start delivering.” We need infrastructure investment. We need new bills. This is a way of stimulating the economy; not giving huge breaks to large corporations but investing at the ground—in a sense, trickle-up rather than trickle-down. This government, of course, is committed to giving large breaks to banks and insurance companies and not to building housing. We think that's the wrong way to go. So, again, a hopeful amendment that within the housing bill we can see some housing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Savoline?

**Mrs. Joyce Savoline:** I won't be supporting this, as much as I understand that there needs to be a combination of both rent supplement programs and some new build. The problem is, the province is broke. There's no costing in this. We need, I think, to look at how to manage the vacant stock that's available on the market right now that can be used, through rent supplement programs,

to house people who need housing before we look into the expensive new builds. For that reason, I won't be supporting this today.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

I'll put the question: Shall the motion carry? All those in favour? Opposed? That does not carry.

We move to number 11. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 4(1)(e) of schedule 1 to the bill be amended by striking out “between different levels of government” and substituting “among governments”.

Again, a technical to address the levels of government.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? None? Shall the motion carry? All those in favour? Opposed? That carries.

We'll move on to the next motion, on page 12. This is a PC motion. Ms. Savoline.

**Mrs. Joyce Savoline:** I move that subsection 4(1) of schedule 1 to the bill be amended by adding the following clause:

“(f.1) has a role for youth-specific programs;”

That goes back to the point I made when we talked about crown wards. I think that this very vulnerable group needs to be identified somewhere so that the message goes to the service managers when they're developing their local plans because, after all, this isn't a plan. We've asked the local providers to develop and execute a plan. But I think that they need to know that there's an intent on the part of the provincial government to highlight that there's a vulnerable group of people, and they are youth at risk—challenged youth; youth that have been, for whatever reason, displaced, and have nowhere to live to be able to get their lives together. That's why we've submitted this amendment.

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**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes. We're going to be supporting this motion. What we can't get for crown wards, hopefully we can get for all youth.

I just wanted to add a personal anecdote. I was one of those youth who needed a housing supplement, who existed on welfare when I was a teenager and, under the Progressive Conservative government in Ontario of the day, could actually live on welfare, pay my rent, go to high school and finish high school and the early years of college. That was a far happier time than the one that our youth, who are homeless right now or on social assistance, are facing. Right now, as we've heard from the advocate here and from youth themselves, times are very dire, and it's very difficult to pull yourself up when you simply cannot afford to live, certainly in our major metropolitan areas. So certainly, we'll be supporting this.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I understand the intent, but again, the flexibility within the bill for the service



managers is what the service managers themselves have asked for. In discussion with those service managers, they've asked for the flexibility to be able to provide the programs locally to meet their local needs, whether it be youth, seniors, the vulnerable—whatever. Right now, it's too prescriptive and too siloed, and they asked for that flexibility. In fact, this bill does provide the flexibility for the service managers, although, as I say, I understand the intent. So we will not be supporting the motion.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** Again, here is a basic philosophical divide. This is a housing ministry that doesn't want to say anything or do anything about housing. It doesn't want to give directives to service managers as to how that money should be spent, yet gives them money. This is really stepping back from the duties of their ministry.

We need a minister and a ministry that will step up and give directives to service managers on behalf of the citizens of Ontario, rather than leaving everything in local hands. Again, for that reason alone, we'll support this motion.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the question, then: Shall the motion carry? All those in favour? Opposed? That does not carry.

We'll go to page 13. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 4(1)(i) and (j) of schedule 1 to the bill be struck out and the following substituted:

"(i) allows for a range of housing options to meet a broad range of needs;

"(j) ensures appropriate accountability for public funding;

"(k) supports economic prosperity; and

"(l) is delivered in a manner that promotes environmental sustainability and energy conservation."

**The Chair (Mr. Lorenzo Berardinetti):** Would you wish to speak to it?

**Mrs. Donna H. Cansfield:** We recommend supporting this motion because the proposal will actually broaden the provincial interest to capture additional principles of importance to the government.

The language will be amended in two additional provincial interests, including supporting economic prosperity as well as promoting environmental sustainability and energy conservation.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes. We will be supporting this in the New Democratic Party, mainly and mostly because it was asked for by a stakeholder who, I think, knows what they're doing, and that's the organization of non-profit housing in Ontario. So we will be supporting it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

I'll put the question, then: All those in favour of the motion? Opposed? That carries.

The next question is: Shall section 4 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We'll move to schedule 1, section 5. It's the government motion on page 14. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 5 of schedule 1 to the bill be amended by adding the following subsections:

"Review

"(5) The minister shall, at least once every 10 years, undertake a review of the policy statement.

"Consultation

"(6) In the course of the review of a policy statement, the minister shall consult with any persons the minister considers appropriate."

Currently, the bill does not require the minister to review or consult, and the language would be amended to require the minister to undertake this sort of periodic review and to do consultation.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** I have a question of the government on this: why 10 years and not five years? Where did the number 10 come from? Is this astrological, or is there some—it seems to us in the New Democratic Party that that's a pretty long time to hold a ministry to account. We'd rather see something like five years, in which case we'd support it. We may support it anyway, as the best of a worst-case situation, but we would prefer to see that length of time shortened.

**Mrs. Donna H. Cansfield:** The service manager local provision plans are 10 years, so it's just consistent with those.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? All those in favour of the motion? Opposed? That carries.

Shall section 5 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We move to section 6 of schedule 1 on page 15. It's an NDP motion.

**Ms. Cheri DiNovo:** This is sort of a foregone conclusion that this will be voted down, but anyway, I move that clause 6(2)(a) of schedule 1 to the bill be struck out and the following substituted:

"(a) an assessment of current and future housing needs within the service manager's service area, including an assessment of the current and future housing needs of crown wards;"

Again, we're very concerned in the New Democratic Party about this most vulnerable of populations, as evidenced here very strongly by their advocates and by themselves, and are concerned that they not only be defined but be included.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None.

Shall the motion carry? All those in favour? Opposed? That does not carry.

We go to page 16. It's a PC motion. Ms. Savoline.



**Mrs. Joyce Savoline:** Having come from a municipality, I understand what the hardship would be to turn all this around in about—what?—seven months, maybe six months by the time all this is said and done. AMO has also suggested that we extend the timeline to 2013—

**The Chair (Mr. Lorenzo Berardinetti):** Sorry to interrupt. Did you read this motion into the record?

**Mrs. Joyce Savoline:** Oh, I'm sorry. I did not.

I move that subsection 6(7) of the bill be amended by adding "which shall not be before January 1, 2013" at the end.

I'm sorry about that. Right now, it reads "2012." The work plans for municipalities have been set, and for them to now go back to do a plan of this magnitude, that takes this kind of consideration, the detail—you've got to get it right—there has to be some public consultation. Just a few months is not enough. I think that it's also a consideration of how much money a municipality will have to apply to create this plan; it won't just happen. Some municipalities may not have the in-house staff to be able to develop a plan of this magnitude and importance, and they may have to look for outside help.

So, given all those timelines, I think that it would behoove us to understand that this is a big ship to turn around for municipalities and that 2013 is a much more appropriate date.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mrs. Donna H. Cansfield:** If I may, just for the record, actually the plans for the service managers have to be in place one year after proclamation of the act, not 2012, so in fact we will address this not in legislation but through regulation. So we will not, obviously, be supporting the motion.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** Unfortunately, we in the New Democratic Party will not be supporting this. We're just a little concerned about the possibility of repeal of what little good—and there is little good in this bill. We're concerned that it be pushed off even further, so we will not be supporting this.

**The Chair (Mr. Lorenzo Berardinetti):** Is there any more debate? None.

Shall the motion carry? All those in favour? Opposed? That does not carry.

Shall section 6 of schedule 1 carry? All those in favour? Opposed? That carries.

**0950**

There's a new section, 6.1, which comes after section 6. It's on page 17. Ms. DiNovo, would you like to read it into the record?

**Ms. Cheri DiNovo:** I move that schedule 1 to the bill be amended by adding the following section:

"Ontario housing and homelessness plan

"6.1(1) The minister shall, within one year after the coming into force of section 6, convene a conference of representatives of the government of Canada, the government of Ontario, Ontario municipalities, aborig-

inal communities, non-profit and private sector housing providers and civil society organizations, including those that represent groups in need of adequate housing, in order to develop the principles and requirements of an Ontario housing and homelessness plan to reduce and eliminate homelessness and to respect, protect, promote and fulfill the right to adequate and affordable housing in Ontario.

"Contents

"(2) The Ontario housing and homelessness plan must,

"(a) include clear targets and timelines to reduce and eliminate homelessness and implement programs to ensure that these commitments are fulfilled;

"(b) give priority to ensuring the availability of adequate housing to those without housing and to groups particularly vulnerable to homelessness, including groups facing discrimination;

"(c) include a plan to ensure that accessible housing is available to all persons with disabilities;

"(d) include processes for,

"(i) the independent review of complaints about possible violations of the right to adequate housing,

"(ii) addressing and reporting such complaints, and

"(iii) reviewing and following up on concerns and recommendations from United Nations human rights bodies with respect to the right to adequate housing relevant to Ontario.

"Compliance at local level

"(3) Every service manager shall ensure that its plan to address housing and homelessness required under subsection 6(1) reflects and is consistent with the Ontario housing and homelessness plan."

**The Chair (Mr. Lorenzo Berardinetti):** Would you like to speak to it?

**Ms. Cheri DiNovo:** Yes, thank you. What this does, really, is put a housing plan into Bill 140. What it does is to put in what is absent, which is any kind of guidelines, targets, and, in fact, would put Bill 140 in compliance with the United Nations human rights law.

I'll just quote again from the letter from Miloon Kothari from the United Nations, who says the same thing:

"A housing strategy must:

"—prioritize the needs of groups most vulnerable ... aboriginal people and people with disabilities;

"—include firm goals and timetables for the elimination of homelessness ...;

"—provide for independent monitoring ...;

"—ensure meaningful follow-up to concerns and recommendations from UN human rights bodies."

I'm just pointing out that this provincial government is in breach of that and certainly will not fulfill United Nations human rights law by passing Bill 140 without this amendment. Certainly, this amendment and others have been supported by the special rapporteur.

Again, what we're looking for in Bill 140, which isn't there, is a real housing plan.

**The Chair (Mr. Lorenzo Berardinetti):** Is there any further debate? None? I'll put the question.



Shall the new section 6.1 carry? All those in favour? Opposed? That does not carry.

There are no amendments to section 7, so I'll put the question.

Shall section 7 of schedule 1 carry? All those in favour? Opposed? Carried.

We'll move to section 8 of schedule 1, and that's on page 18. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 8 of schedule 1 to the bill be struck out and the following substituted:

"Approval of housing and homelessness plan by minister

"8(1) A service manager's housing and homelessness plan is of no force or effect unless and until it is submitted to and reviewed and approved by the minister.

"Consultation with other ministers

"(2) Before deciding whether to approve a proposed housing and homelessness plan, the minister shall submit the proposed plan to all other ministries for the purpose of soliciting comments and recommendations with respect to the proposed plan, and the other ministries shall review the proposed plan and provide their comments and recommendations to the minister within the time required by the minister.

"Minister to consider comments and recommendations

"(3) The minister shall take into consideration all comments and recommendations received from other ministries in determining whether to approve the plan or to return it to the service manager to make changes as directed by the minister before approving the plan.

"Compliance with housing and homelessness plan

"(4) All ministries shall abide by the provisions of a housing and homelessness plan approved by the minister as far as the provisions affect local agencies that receive funding from the government of Ontario."

This was asked for by the organization of non-profit housing providers. We feel it's very important that this government take a lead in affordable housing in the province of Ontario and not leave everything up to the municipalities' service managers. This also requires of them that they get buy-in from their own cabinet around these issues.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed? That does not carry.

We move to page 19. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 8(1) of schedule 1 to the bill be struck out and the following substituted:

"Plan approval

"(1) Before approving its housing and homelessness plan, a service manager shall,

"(a) consult with the minister by providing the minister with a copy of the proposed plan; and

"(b) ensure that the proposed plan contains a specific strategy that supports crown wards and former crown wards."

**The Chair (Mr. Lorenzo Berardinetti):** Did you wish to speak to the motion?

**Ms. Cheri DiNovo:** Sure. Again, the inclusion of crown wards, the special group requiring special consideration, but also requiring the minister to step up around housing and give some directives to service managers. We're very concerned about the possibility of privatization of affordable housing units and what might happen should service managers run the housing policy of the province of Ontario, and that's clearly what's happening. Again, a build on the last amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? Those in favour? Opposed? That does not carry.

Shall section 8 of schedule 1, carry? All those in favour? Opposed? Carried.

There are no amendments to sections 9 and 10 of the schedule, so I'll put them together. Shall sections 9 and 10 of schedule 1 carry? All those in favour? Opposed? Carried.

Now we're on section 10.1. It's a new section. Ms. Savoline.

**Mrs. Joyce Savoline:** I move that schedule 1 to the bill be amended by adding the following section:

"Eviction review

"10.1 Within five years after this section comes into force, the minister shall conduct a review of eviction policies in housing to which this act applies, and take appropriate action."

I've learned through my critic's role listening to stakeholders, both tenants and landlords, that the eviction process is very cumbersome; in fact, it's a mess, quite frankly. There's a lot of money needlessly being spent on that process rather than being spent in maintaining buildings, upgrading buildings, doing things that the money is really meant to be used on.

There has to be some kind of monitoring done and mentioned in this bill to identify the real experience that both tenants and landlords have been having with this process. We need a process that's more predictable, that's far less financially burdensome and that is fair to both the tenant and the landlord. Nothing is happening with regard to that, and given that this bill is our opportunity to highlight this very important issue, that's why we submitted this amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Mrs. Donna H. Cansfield:** The proposed motion is actually not within the scope of this section. The provision is not required as the Residential Tenancies Act, 2006, deals with eviction-related matters, and the minister can review this act, including eviction policies at any time. So no, we will not be supporting this.

**The Chair (Mr. Lorenzo Berardinetti):** Any further—Ms. Savoline.

**Mrs. Joyce Savoline:** The process is broken. It's miserably broken, and there has to be a statement made somewhere that leads you back to the Residential Tenancies Act so that people are alerted to the fact that



something needs to be done. I just see this as an opportunity to raise people's awareness, to get into that process, clean it up so that we're not into a process that costs so much money, both for the tenant and the landlord, and that we can clean this up. It's an opportunity, and I hope that the government understands where I'm coming from. There's a mess, and nobody is doing anything about it.

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**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo?

**Ms. Cheri DiNovo:** I would absolutely agree that it's a mess. There are all sorts of problems at the Landlord and Tenant Board as far as tenants' rights are concerned. I'm just a little sceptical about opening it up in this venue. I would hate to see it become worse for tenants, so we, in the New Democratic Party, are going to abstain from this.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the question: Shall the motion carry? All those in favour? Opposed? It's lost.

There are no amendments to sections 11 and 12, so I'll put the question. Shall sections 11 and 12 of schedule 1 carry? All those in favour? Opposed? Carried.

We'll move to section 13 of our package. It's on page 21. It's a government motion. Ms. Cansfield?

**Mrs. Donna H. Cansfield:** I move that subsection 13(1) of schedule to the bill be amended by striking out "administer" and substituting "establish, administer".

**The Chair (Mr. Lorenzo Berardinetti):** Any debate?

**Mrs. Donna H. Cansfield:** If I may, it's just that it's a technical and non-contentious proposed motion. It's just to clarify that the service manager has the authority to establish, administer and fund housing in homelessness programs, and to make it consistent with the Social Housing Reform Act of 2000.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** We're going to vote for this. I'm just a little concerned. At least it's establishing affordable housing, one hopes, and not privatizing it, so we will support it, hoping that the government has good intentions behind this.

**The Chair (Mr. Lorenzo Berardinetti):** Shall the motion carry? All those in favour? Opposed? That carries.

The next motion is on page 22. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 13 of schedule 1 to the bill be amended by adding the following subsection:

"Service manager shall not reduce number of non-profit units

"(1.1) A service manager shall not carry out its objectives in a manner that reduces the number of units of each size and type within the service manager's area that are owned by non-profit corporations or housing co-operatives."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Ms. Cheri DiNovo:** Yes. Certainly, this speaks to our real concern and fear being realized as we speak, that non-profit housing units may be privatized. The housing minister needs to step up and make it very clear that we need stability in housing stock. In fact, we need more housing stock—as I've made particularly clear—not less.

We're very frightened that by stepping away from their mandate at the housing ministry and letting the service managers make mandates as they go, privatization is going to happen. That's the backdrop of this.

It has also, of course, been supported by a number of stakeholders who have come before us. I'm thinking of the co-op housing providers of Canada and Ontario and others. Again, it's a very necessary motion, we feel, under the current circumstances.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? Ms. Savoline.

**Mrs. Joyce Savoline:** We can't support this, mainly because the situation isn't a one-size-fits-all, and this imposes a one-size-fits-all scenario. I don't think it leaves enough flexibility for the service managers.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? Ms. Cansfield?

**Mrs. Donna H. Cansfield:** I concur. We certainly heard from the service managers, for example, about the plethora of bachelor units; they're not in a family unit. They would like to reduce the bachelor to make family. This would preclude that occurring, so we will not be supporting.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? None?

Shall the motion carry? All those in favour? Opposed? That does not carry.

Shall section 13 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

There are no amendments between sections 14 and 26, so I'll just put the question.

Shall sections 14 to 26 carry? All those in favour? Opposed? Carried.

That takes us to section 27. There's a government motion on page 23. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 27 of schedule 1 to the bill be amended by adding the following subsection:

"Application of rules to entity that is not a local housing corporation

"(5) The rules may provide that they apply to an entity described in paragraph 1 or 2 of subsection 30(1) that owns a housing project that was previously transferred to a local housing corporation by a transfer order under part IV of the former act, but the rules may apply to the entity,

"(a) only in respect of the housing project; and

"(b) only with respect to the period of time in which the entity owns the housing project."

**The Chair (Mr. Lorenzo Berardinetti):** Any debate or discussion?



**Mrs. Joyce Savoline:** With all due respect, I just need more clarification to understand what this is going to actually do.

**Mrs. Donna H. Cansfield:** Certainly. What this would do is ensure that the housing project continues to be operated in accordance with the same rules, and that under certain circumstances, the housing projects of a local housing corporation can be transferred without the requirement of ministerial consent. The amendment would ensure, in such cases, that the housing project continues to be operated within the same rules. A similar provision currently exists under the social housing act.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? Carried.

Shall section 27 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We move to our next motion, on page 24, which addresses section 28. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 28 of schedule 1 to the bill be amended by adding the following subsection:

“Same

“(2) An entity described in paragraph 2 of section 29 or paragraph 2 of subsection 30(1) is entitled to a subsidy under subsection (1) in respect of a housing project that was previously transferred to a local housing corporation by a transfer order under part IV of the former act and is owned by the entity, but only with respect to the period of time during which the entity owns the housing project.”

This amendment would ensure that the funding for the operation for the project would remain the same after the transfer has taken place, and, again, is consistent with the social housing act.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 28 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

For sections 29 to 31, there are no amendments.

Shall sections 29 to 31 carry? Carried.

We move to section 32. That's government motion number 25. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 32(a) of schedule 1 to the bill be amended by striking out “related service manager” and substituting “minister”.

If I may, the recommendation in this amendment is part of a number of amendments that would reinstate certain ministerial consent requirements. This particular amendment would require that the ministerial consent is required before shares in a local housing corporation could be issued to the private sector. The current language gives the service manager the authority, but we are now requiring ministerial consent.

1010

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** We in the New Democratic Party are going to support this. We think it's the right thing to

do. It has been asked for by the co-op housing federation and, certainly, it's a step in the right direction and a step in saying, yes, the housing minister should act like a housing minister and do housing.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? I'll put the question. Shall the motion carry? That carries.

Shall section 32 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

We'll move to section 33 of the bill and the amendment on page 26 of our package. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 33(1)(a) of schedule 1 to the bill be amended by striking out “related service manager” and substituting “minister”.

The explanation is that the proposed government motion would require ministerial consent before any transfer of shares to a local housing corporation could take place.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** We in the New Democratic Party are going to vote for this. Again, it's asked for by the co-op housing federation, and we think it's important that the housing minister take responsibility in this regard.

I just want to point out to the government that I do vote for your amendments; I just wish you'd return the favour.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed? That carries.

Shall section 33 of schedule 1, as amended, carry? All those in favour? Carried.

We move to section 34. It's government motion 27. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 34(a) of schedule 1 to the bill be amended by striking out “related service manager” and substituting “minister”.

The reason, again, is that it would require ministerial consent before an amalgamation involving a local housing corporation could take place.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** We in the New Democratic Party are going to support this for the same reasons we supported the two other amendments.

**The Chair (Mr. Lorenzo Berardinetti):** Shall the motion carry? All those in favour? Opposed? It carries.

Shall section 34 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We'll go to section 35 of schedule 1. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 35(a) of schedule 1 to the bill be amended by striking out “related service manager” and substituting “minister”.

The explanation of this proposed motion would again require ministerial consent before the voluntary windup or dissolution of a local housing corporation could take place.



**The Chair (Mr. Lorenzo Berardinetti):** Any debate? None? Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 35 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We'll go to page 29. It's a government notice. Is there any debate on this section? I'll put the question on this section. Shall section 36 of schedule 1 carry? All those in favour? Opposed?

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** I'll ask the question again, and I just need to see hands.

Shall section 36 of schedule 1 carry? All those in favour?

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Maybe Trevor can provide a quick explanation.

**The Clerk Pro Tem (Mr. Trevor Day):** There's a parliamentary convention that you don't have an amendment to strike down a section; you simply vote against the section. In your amendment packages, number 29, you're seeing a notice. It's not so much an amendment as a notice that certain parties wish to vote down this section. Again, when the question goes on the section itself, it's a notice or a reminder that they will be voting against the section, as opposed to an amendment to strike it out completely.

We're not actually voting on 29; we're voting on the section itself.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Cansfield, yes?

**Mrs. Donna H. Cansfield:** It might be helpful: Because we have amended sections 32, 33, 34 and 35, we don't need 36 and 37.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the question again. Shall section 36 of schedule 1 carry? All those in favour? Opposed? The section is lost.

We're on page 30 now, and it's the same basic question that I'm going to put. Shall section 37 of schedule 1 carry? All those in favour? Opposed? The section is lost.

Our next motion is on page 31. It's an NDP motion. It's a new section, section 37.1. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that schedule 1 to the bill be amended by adding the following section:

"Prohibition against encumbrance that reduces number of units

"37.1(1) A local housing corporation shall not transfer or encumber any of its assets if the result of the transfer or encumbrance would be a reduction in the number of units of each size and type owned by the corporation.

"Invalidity of actions contrary to subs. (1)

"(2) A transfer or encumbrance carried out in contravention of subsection (1) is invalid and of no force or effect."

Again, it's similar to our last amendment where we're trying to emphasize the dire situation of possible privatization of the housing stock and the importance of keeping our housing stock.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mrs. Donna H. Cansfield:** We will not be supporting this because we've actually removed this in the previous sections.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? Shall the motion carry? All those in favour? Opposed? The motion is lost.

Between sections 38 and 42 there are no amendments, so this will be the final question I'll put this morning. Shall sections 38 to 42 carry? All those in favour? Opposed? That carries.

We're going to break and come back either at 2 o'clock or after routine proceedings. We do have the Japanese ambassador coming to address the Legislature today. We're in recess until that time.

*The committee recessed from 1018 to 1413.*

**The Chair (Mr. Lorenzo Berardinetti):** I call this meeting back into order. This is the Standing Committee on Justice Policy. We're back to clause-by-clause consideration in regard to Bill 140. We're on schedule 1, section 43, and the motion is on page 32. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that paragraph 1 of subsection 43(1) of schedule 1 to the bill be amended by striking out "have at least" and substituting "have, in total, at least".

The reason for the proposed government motion is that it would clarify that the required number of modified units set by the province for the service manager area will relate to the overall housing portfolio and not to individual housing projects.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? Shall the motion carry? All those in favour? Opposed. Carried.

Shall section 43 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

We'll move to section 44. On page 33, we have an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 44(2) of schedule 1 to the bill be struck out and the following substituted:

"Priorities and limits

"(2) For the purposes of subsection (1),

"(a) the prescribed provincial eligibility rules must recognize the need for and provide special priority for housing for crown wards; and

"(b) the local eligibility rules made by the service manager must,

"(i) recognize the need for and provide special priority for housing for crown wards, and

"(ii) be limited to only prescribed matters."

This follows from the discussion this morning. We had, of course, the provincial advocate and their crown wards making recommendations to this committee that priority be given to these young people who have literally been cast onto the street on occasion. The government, of course, voted that down. They don't see the necessity of



looking after youth in terms of housing. I assume that this is more or less out of order, because it follows from that.

**The Chair (Mr. Lorenzo Berardinetti):** I will let it stand and we'll put it to a vote. All those in favour of the motion? Opposed? It's not carried.

Shall section 44 of schedule 1 carry? All those in favour? Opposed? Carried.

The clerk just reminded me: He does the hand count and he's asking me if everyone would kindly put their hands up if they're either in favour or opposed.

Then we move to the next motion—first we'll go through sections 45, 46, 47 and 48. There are no amendments. Shall those sections carry? All those in favour? Opposed? Carried.

We'll move to schedule 1, section 49. That's page 34. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** Sorry, Mr. Chair; I just realized I've left some papers back in the office. We're on section 34?

**The Chair (Mr. Lorenzo Berardinetti):** Page 34.

**Ms. Cheri DiNovo:** Thank you. Got it.

I move that subsection 49(2) of schedule 1 to the bill be amended by adding the following clause:

“(a.1) priority rules for households waiting for rent-geared-to-income assistance that gives priority to seniors;”

We heard from seniors' organizations in the deputation stage. Again, seniors are waiting 10 to 12 years, on average, for affordable housing on wait-lists of 152,000 families in Ontario, 70,000 in the GTA. They are literally dying on the waiting lists, and they ask that some priority be given to seniors for affordable housing. I certainly think that's simply the compassionate thing to do, given the broader picture that we don't have nearly enough housing and that this government has no housing in this bill.

I want to draw everybody's attention to this letter, because I know they all have it now, the letter from the special rapporteur from the United Nations who has called Ontario in breach of international law, and that unless this sort of amendment is passed, they will continue to be in breach of international human rights law with our lack of housing strategy, timetable or target in this province. So yes, seniors need housing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? All those in favour of the motion? Opposed? That does not carry.

We'll move on to page 35. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** Again, this follows from the need of certain individuals.

I move that clause 49(2)(b) of schedule 1 to the bill be struck out and the following substituted:

“(b) priority rules for households waiting for rent-geared-to-income assistance,

“(i) that recognize the need for special priority for housing for crown wards, and

“(ii) that permit crown wards to maintain their place in priority on waiting lists if they move between service areas; and”

Again, flowing through the provincial advocate speaking about children who are most at risk, most vulnerable. I gave my own example as one, that there used to be a situation in the province of Ontario where you could live on student welfare and pay rent. That is no longer the case. So you have our most vulnerable children again not being given priority on housing waiting lists.

1420

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Savoline.

**Mrs. Joyce Savoline:** Just quickly, Mr. Chair, thank you. I don't want to make it look like I'm contradicting what I voted for this morning. My whole concern with these last couple of amendments is that we call it “special priority.” I think that takes the flexibility away from each individual municipality that needs to develop its local plans because, in some cases, their priorities may be different, and their special priorities may be different. That's the reason I voted against the last one and this one.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes, with all due respect to my colleague, it's for exactly that reason that we think the housing ministry needs to step up and give guidelines to service managers and service providers at the municipal level: because if they don't do that, exactly what's happening will continue to happen, that is, crown wards and seniors will be just in the general mix—and that is what's happening. We think that the housing ministry has a leadership role to play here, and clearly it's not playing it in Bill 140 as it's structured. It's exactly to that leadership role that this speaks.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I just want to recognize that the province actually has established a single priority, and that is to protect those experiencing domestic abuse, and to reiterate how important it is to provide for the flexibility at the local level, as individual service managers meet the needs of their communities, which are not the same in each community. That's the purpose of giving this flexibility.

**The Chair (Mr. Lorenzo Berardinetti):** We'll then vote on the motion. All those in favour of the motion? Opposed? That does not carry.

Shall section 49 of schedule 1 carry? All those in favour? Opposed? Carried.

There are no amendments to sections 50 and 51. All those in favour of sections 50 and 51? Opposed? Carried.

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** The clerk's shaking his head. We'll do it one more time because he's taking the votes down. Schedule 1, section 50 and schedule 1, section 51: Those two sections have no amendments to them, so they stand as they were presented. All in favour of those two sections? Opposed? Carried.

We'll move to the next motion, which is motion 36. Ms. DiNovo.



**Ms. Cheri DiNovo:** I move that section 52 of schedule 1 to the bill be amended by adding the following subsection:

“Scholarships received by crown wards not part of income

“(2.1) The requirements prescribed for the purposes of subsection (2) must provide that scholarships received by crown wards attending post-secondary educational programs on a full-time or part-time basis are not considered income for the purposes of determining the amount of rent payable by crown wards.”

It’s again something that the provincial advocate for youth has recommended. It’s absolutely abhorrent, I think, that scholarships to university for the most vulnerable youth are considered part of their income. Again, I know what I’m going to hear from the government side: that they want to leave this up to service managers; they want to leave this up to local authorities. It’s too important, I would say, to be left up to municipalities and local authorities. This is where guidance is really required at the provincial level, and this is where we seek guidance from the housing ministry.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Just for clarification: The rules governing rent-geared-to-income calculations are currently prescribed in regulation.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Savoline.

**Mrs. Joyce Savoline:** I’m going to support it just to make the statement, because I think that anything we can do to pass the message along that we want rules put in place that do not discourage these young people from giving up—that we want to encourage them to continue to and make productive citizens of themselves and contribute back to society is what our primary responsibility to these kids is. We heard those heart-wrenching stories of the young folks who came before us. It’s admirable that they were making a go of it, but for every one of those, I’m sure there are 100 or more who didn’t make it. Any message that we can send is a good one in this respect, so I will be supporting it.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. We’ll vote on the motion then. All those in favour of the motion? Opposed? That does not carry.

Shall section 52 of schedule 1 carry? All those in favour? Opposed? That carries.

We’ll move on to section 53. Page 37 is a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 53 of schedule 1 to the bill be amended:

“(a) by adding ‘or forgive’ after ‘defer’ in subsection (1);

“(b) by adding ‘or forgiveness’ after ‘deferral’ in subsection (2); and

“(c) by adding ‘or forgiveness’ after ‘deferral’ in subsection (a).”

As an explanation, currently service managers can, at their discretion, defer rent when a household is tempor-

arily unable to pay their rent, but often in practice the service managers sometimes forgive the rent instead of deferring it. This proposed motion simply enshrines the current service managers’ practice but would now explicitly provide service managers with the ability to both defer and forgive.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes, just to show that I’m a team player, we in the New Democratic Party will be supporting this. Forgiveness is divine. We would like to see rent forgiven far more often. So, absolutely, we’re going to support this.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Mr. Chair, I think I made an error. It should say in (c) at the end, “in subsection (4).” I actually said “(a).”

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further debate? None? We’ll vote on the motion. All those in favour of the motion? Opposed? That carries.

We’ll move then to the next motion, on page 38. It’s an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 53 of schedule 1 to the bill be amended by adding the following subsection:

“Housing provider to be compensated

“(5) If the service manager decides to defer all or part of the rent payable by a household receiving rent-geared-to-income assistance, the housing provider shall be compensated for any resulting loss of revenue in the prescribed manner.”

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion on this motion, Ms. DiNovo?

**Ms. Cheri DiNovo:** Yes, absolutely. Certainly, this has been asked for for housing providers. We’ve supported the government in the last motion and would hope that they support us in this amendment. Yes, it’s well and good to forgive rent, but housing co-ops and affordable housing are barely making ends meet as it is. We don’t want to take away valuable housing dollars that could be used by forcing them to fill in for default here.

Definitely, this is something that’s been asked for by ONPHA and other stakeholders who have deputed before us. We in the New Democratic Party support it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None, so I’ll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

Shall section 53 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

There are no amendments to section 54, so I’ll put the question. Shall section 54 of schedule 1 carry? All those in favour? Opposed? Carried.

Moving on to section 55, it’s an NDP motion on page 39. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 55(1) of schedule 1 to the bill be amended by adding the following paragraph:



"4.1 A decision of a service manager under section 53 to deny an application to defer all or part of the rent payable by a household receiving rent-geared-to-income assistance."

Again, this has been asked for by the organization of non-profit housing providers. Our research—I'll just read our research notes here as it's pretty straightforward.

"Both the household and housing provider should be provided with written notice regarding decisions on the deferral of geared-to-income rent, the household for obvious reasons and the housing provider because subsection 53(4) binds the housing provider to decisions made."

This really requires the service manager to give a housing provider written notice of a decision to defer. Again, I just heard some troubling news: Another 47 units of Toronto community housing are probably going to be privatized. As we lose more and more affordable housing in this province, of which we have precious little to begin with, we have to make it easier, not more difficult, for housing providers in the non-profit sector to provide housing.

1430

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** We will not be supporting this, because we actually had a previous motion where we spoke to forgiveness as well. If we look forward to government motions 40 and 41, they are more appropriate and consistent with what we've already passed.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? None? We'll vote on the motion. All those in favour of the motion? Opposed? That does not carry.

We'll go to page 40. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that paragraph 6 of subsection 55(1) of schedule 1 to the bill be struck out and the following substituted:

"6. A determination, under subsection 53(1), as to whether or not rent will be deferred or forgiven.

"7. A decision prescribed for the purposes of this paragraph."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mrs. Donna H. Cansfield:** If you like, the explanation is that it would require service managers, in instances when they decide to defer or forgive, to notify the household.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo, did you have—

**Ms. Cheri DiNovo:** Yes. It's substantially similar to ours, and we will be supporting this. Again, I would like it stronger, but we'll be supporting this in the New Democratic Party.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour? Opposed? That carries.

We'll move to page 41. That's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 55(2) of schedule 1 to the bill be amended by adding the following paragraph:

"2.1 Notice of a decision of the service manager under section 53 to defer all or part of the rent payable by a household receiving rent-geared-to-income and information on the maximum size and type of unit permissible for the household."

Again, this was asked for by our housing providers in the non-profit field. It just speaks to the obvious: They need to receive notice of the size and type of unit permissible for households receiving RGI assistance, to ensure compatibility with that entitlement. That's what it speaks to.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mrs. Donna H. Cansfield:** Just to reiterate, we will not be supporting this because, in fact, it's inconsistent with what we've done on the issue of defer or forgive-ness. We look to item 42.

**The Chair (Mr. Lorenzo Berardinetti):** We'll then put the motion to a vote. All those in favour of the motion? Opposed? It does not carry.

We'll go to page 42. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that paragraph 3 of subsection 55(2) of schedule 1 to the bill be struck out and the following substituted:

"3. A determination described in paragraph 6 of subsection (1) that rent is being deferred or forgiven.

"4. A decision prescribed for the purposes of this paragraph."

Again, this is for consistency for defer or forgive, to notify the householder.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Ms. Cheri DiNovo:** We're so nice in the New Democratic Party. We're going to support this. Again, I would encourage the government side, instead of voting in lockstep with what their corner office commands, to actually be independent and to occasionally look at our amendments and motions and support some of them.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour of the motion? Opposed? That carries.

I'll put the question, then, regarding section 55. Shall section 55 of schedule 1, as amended, carry? All those in favour? Opposed? That's carried.

We'll move, then, to section 56 of schedule 1. We have a government motion on page 43. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that paragraph 6 of subsection 56(1) of schedule 1 to the bill be struck out and the following substituted:

"6. Information about the provincial eligibility rules prescribed for the purposes of paragraph 1 of subsection 44(1).

"7. Information about the provincial priority rules prescribed for the purposes of paragraph 1 of subsection 50(2).



"8. Any information or documents prescribed for the purposes of this paragraph."

In essence, the proposed government motion would require that service managers make the provincial eligibility and priority rules available to the public.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Ms. Cheri DiNovo:** We in the New Democratic Party are all for transparency, so I'm going to support this motion.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote, then. All those in favour? Opposed? Carried.

Shall section 56 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments on a couple of these sections—section 57, section 58, section 59 and section 60. Shall sections 57 to 60 of schedule 1 carry? All those in favour? Opposed? Carried.

The next motion is on page 44.

**Ms. Cheri DiNovo:** I move that section 61 of schedule 1 to the bill be amended by adding the following subsection:

"Seniors

"(2) The prescribed provincial eligibility rules for special needs housing must provide that seniors are eligible for special needs housing."

I've spoken about this before in the other amendment, and I'm thinking in particular here—and we all were here when the African Canadian Social Development Council came and deputed before us—extremely articulate and moving—and argued for the fact that, yes, our seniors are literally dying on housing waiting lists and so they need to be given some kind of priority. Again, that speaks to an absence of the leadership role of the Ministry of Housing, willing to download that responsibility to municipalities in a way that we don't think is compassionate. So here's an instance of that.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? No? We'll put the motion to a vote. All those in favour? All opposed? It does not carry.

Shall section 61 of schedule 1 carry? All those in favour? All opposed? That carries.

We'll move on to the next motion. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsections 62(2) and (3) of schedule 1 to the bill be struck out and the following substituted:

"Contents of application

"(2) An application must include,

"(a) the prescribed information and documents; and

"(b) the information and documents required by the special needs housing administrator.

"Limitations on required information and documents

"(3) The information and documents the special needs housing administrator may require under clause (2)(b) are subject to the prescribed limitations."

The proposed amendment actually would ensure consistency regarding the province's ability to prescribe

application contents for both the rent-geared-to-income and special needs housing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Ms. Cheri DiNovo:** Yes, just to say that we in the New Democratic Party are going to support this amendment. It allows for some flexibility, and that's a good thing.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote.

**Mr. Ted McMeekin:** I'm going to support it too.

**The Chair (Mr. Lorenzo Berardinetti):** All those in favour? Opposed? Carried.

Shall section 62 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments from section 63 all the way to section 68, so I'll put the question. Shall sections 63 to 68, inclusive, carry? All those in favour? Opposed? That carries.

The next section is 69, and it's a government motion.

**Mrs. Donna H. Cansfield:** I move that paragraph 4 of subsection 69(1) of schedule 1 to the bill be struck out and the following substituted:

"4. Information about the provincial eligibility rules prescribed for the purposes of section 61.

"5. Information about the provincial priority rules prescribed for the purposes of subsection 65(2).

"6. Any information or documents prescribed for the purposes of this paragraph."

The amendment would actually include requirements to make information on priority rules and special needs housing public.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Ms. DiNovo.

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**Ms. Cheri DiNovo:** Yes, we are going to support this. In the New Democratic Party, we are all for making things public, and certainly, one of the things we're trying to make public here today is the absence of one new unit of housing, one new rent supplement or any dollars to housing in this housing bill. In fact, we've cut the housing budget by 10% this year in the budget and we already have the worst record in all of Canada for Ontario investment in public housing. We'd like to make that public too.

**The Chair (Mr. Lorenzo Berardinetti):** We'll vote on the motion, then. All those in favour? Opposed? That carries.

Shall section 69 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

There are no amendments for sections 70 to 76. I'll put the question, then: Shall sections 70 to 76 of schedule 1 carry? All those in favour? Opposed? That carries.

We'll move to page 47. It's a government motion. Ms. Cansfield?

**Mrs. Donna H. Cansfield:** I move that subsection 77(1) of schedule 1 to the bill be amended by striking out the portion before clause (a) and substituting the following:



“Operating rules for projects

“(1) A housing provider shall operate a Part VII housing project and govern itself in accordance with,”

The reason for this amendment is that it actually would allow the province to establish, through regulation, general rules that apply to the housing provider itself and not just rules related to the operation of housing projects. It would also allow the service managers’ local rules to address such matters: For example, to require housing providers to remain non-profits in good standing. It could include conflict of interest rules for directors and officers or the minimum number of board meetings to be held each year, as examples.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes, we’re going to support it. We see it as a relatively minor word change.

But after hearing the explanation from the parliamentary assistant, I have to say that in general, we’re very concerned about the amount of regulatory leeway—let’s put it that way—and not statute legislation that happens in this government. Particularly, where housing is concerned, we’d like to see certain rights enshrined in the statute, in Bill 140, and so would, as I pointed out, the United Nations—we’re not alone in that—instead of leaving such a great latitude up to regulations. So, that’s just a general caveat and concern.

**The Chair (Mr. Lorenzo Berardinetti):** We’ll vote on the motion. All those in favour of the motion? All those who are opposed? Okay, the motion carries.

I’ll put the question, then: Shall section 77 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

There are no amendments to section 78, so I’ll put the question: Shall section 78 of schedule 1 carry? All those in favour? Opposed? That carries.

The next section is 79, and there is an NDP motion, number 48. Ms. DiNovo?

**Ms. Cheri DiNovo:** Surprise, surprise, eh? I move that subsection 79(5) of schedule 1 to the bill be struck out and the following substituted:

“Changes by service manager

“(5) The service manager may change a target without the agreement of the housing provider, subject to the following:

“1. The service manager shall consult with the housing provider before making the change.

“2. The service manager gives written notice to the housing provider of the change.

“3. The change is not greater than 10 per cent of the target.

“4. The change is subject to the prescribed restrictions.

“Right to appeal

“(5.1) If a service manager fails to consult with a housing provider as required by paragraph 1 of subsection (5) or changes a target by more than 10 per cent without the consent of the housing provider, contrary to paragraph 3 of subsection (5), the housing provider may apply to a judge of the Superior Court of Justice for an

order reversing the change in the target or for any other order that the court considers reasonable.”

This is, again, a request from the not-for-profit housing providers to maintain the 10% of RGI units restriction so as not to fundamentally alter the community and character of each building without the housing provider’s agreement. This would prevent what we fear: some heavy-handed municipal opportunities to take away the little housing stock and little rent-gear-to-income housing stock that’s available right now, and we see evidence of it happening before our eyes; as I say, not only the 20 units that have just been privatized, but another 47 that are up for privatization. This is a frightening turn of events and it demands a response, we believe, from this government.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We’ll put the matter to a vote, then. Shall the motion carry? All those in favour? Opposed? That does not carry.

Shall section 79 of schedule 1 carry? All those in favour? Opposed? That’s carried.

There are no amendments to sections 80 to 84, so I’ll put the questions together. Shall sections 80 to 84 of schedule 1 carry? All those in favour? Opposed? Carried.

We’ll move, then, to section 85. We have a government motion on page 49. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that paragraphs 9, 10 and 11 of section 85 of schedule 1 to the bill be struck out and the following substituted:

“9. The housing provider incurs an expenditure that is, in the opinion of the service manager, substantial and excessive.

“10. The housing provider incurs an accumulated deficit that is, in the opinion of the service manager, substantial and excessive.

“11. In the opinion of the service manager, the housing provider has failed to operate a designated housing project properly.”

The government motion would enable service managers to determine when certain triggering events have occurred, but it has also strengthened the test on those triggers to “substantial and excessive” in order to make it more difficult for the triggering events to be too broadly interpreted. The motion applies to the following triggering events: substantial and excessive housing provider expenditures, a substantial and excessive accumulated deficit, or a failure to properly operate a designated housing project.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Ms. Cheri DiNovo:** You bet there is. We strongly oppose the new wording. I’m going to just read from a section of our research:

“As a result of municipal pressure to give service managers more flexibility, they have taken out ‘having regard to the normal practices of similar housing providers’ and replaced it with, in all three paragraphs, ‘in the opinion of the service manager.’ This new wording should be strongly opposed. The previous wording gives



some uniform protection and level of comparable standard to housing providers across the province and ensures some level of due diligence is performed by the municipal authority before issuing a triggering event to the housing provider that could result in very serious remedial actions taken by the service manager. Substituting “in the opinion of the service manager” provides no standards of comparison and leaves it wholly at the discretion of municipal bureaucrats to initiate serious remedial actions.”

That’s the last thing we need in this province. We’re seeing it in action right now with Rob Ford’s Toronto; we don’t want to see it in action anywhere else and anymore in Rob Ford’s Toronto. This is a government in lockstep now with Rob Ford, clearly. This is a frightening development; it’s a frightening amendment. We absolutely oppose it.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate?

**Mrs. Donna H. Cansfield:** The language that was previously used, “having regard to normal practices of similar housing providers,” was felt by the service managers themselves to have province-wide information that actually was not available to them, so it was not possible to make those comparisons. That is why the language has changed.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? We’ll put the motion to a vote, then. All those in favour of the motion? Opposed? That carries.

We’ll go on to page 50: NDP motion, Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that paragraph 10 of section 85 of schedule 1 to the bill be struck out and the following substituted:

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“10. The housing provider incurs an accumulated deficit if the accumulated deficit is substantial and excessive, having regard to the normal practices of similar housing providers.”

There could be, for many housing providers in the non-profit sector, deficits from year to year as a general—I mean, my goodness, this government should know about running deficits; they are running about a \$20-billion one of their own. So why not extend some latitude to housing providers in the non-profit field?

We’re very concerned about this being seen as a triggering event. We’re concerned, of course, about the amendment that was just passed leaving lots of latitude to service managers. This just follows on the heels of that.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? We’ll put the motion to a vote. All those in favour of the motion? All those opposed to the motion? That motion does not carry.

I’ll put the question: Shall section 85 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We now move on to section 86 on page 51. There is a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsection 86(1) of schedule 1 to the bill be struck out and the following substituted:

“Assistance before triggering event

“(1) If a housing provider notifies the service manager of a situation that may give rise to a triggering event, or if the service manager otherwise becomes aware of such a situation, the service manager shall use reasonable efforts to assist the housing provider to deal with the situation.”

This motion would require that a service manager, when they become aware of a situation that may result in a triggering event, must make reasonable efforts to assist the housing provider to deal with the situation.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** We’re going to support this. It’s better than nothing, but the reality, as we’ve seen in the last motion, is that we’re letting these bureaucrats run the show in their opinion. It’s questionable, for a housing ministry that doesn’t step up and give guidelines of any sort—“shall use reasonable efforts to assist”; what does that mean if, finally, it’s up to the service manager anyway? What’s the ramification if they don’t use reasonable efforts? There’s none.

At any rate, we’ll support it. It’s better than nothing, but it’s a sad day that we have to support this in a housing bill that doesn’t provide housing.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I’d just like to acknowledge that, actually, this is a very co-operative approach between the service managers and the housing providers to find a way to work together to resolve situations before a triggering event. I actually like the idea of building consensus.

**The Chair (Mr. Lorenzo Berardinetti):** Do you want to speak to it, Ms. DiNovo?

**Ms. Cheri DiNovo:** Mr. Chair, just to point out, it’s like building consensus around this table when there are five Liberals, one NDP and one Conservative. I like to build consensus too, but on an equal playing field.

*Interjections.*

**The Chair (Mr. Lorenzo Berardinetti):** Order, please. So I put the question: Shall the motion carry? All those in favour? Opposed? The motion carries.

I’ll put the question: Shall section 86 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We’ll then go to page 52. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 87 of schedule 1 to the bill be amended:

(a) by striking out paragraphs 4, 5 and 6 and substituting the following:

“(4) The service manager may,

“(i) exercise any of the powers or perform any of the duties of the housing provider under this act, or

“(ii) act as the housing provider with respect to all or part of the assets, liabilities and undertakings of the housing provider, including its housing projects.

“(5) The service manager may appoint an operational advisor for the housing provider.



“(6) The service manager may appoint an interim receiver or interim receiver and manager for the housing provider.”

(b) by striking out paragraph 10.

Overall, the government motion would clarify the authority that the service manager has to exercise a remedy by allowing service managers to perform these duties. The motion also removes the remedy of requiring the training of a housing provider or staff.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** From what we heard from our deponents here and again from those who run affordable housing in this province, they were a little concerned with some of the language here. The New Democratic Party is going to support it—better than nothing, as usual—but “may, may, may.” We would like to see, certainly, the least intrusive measures being asked to be used first by service managers if a problem arises, and there’s no real mandate here to do that.

As I say, it’s better than nothing. We’re going to support it.

**The Chair (Mr. Lorenzo Berardinetti):** We’ll put the motion to a vote. All those in favour of the motion? Opposed? The motion carries.

Shall section 87 of schedule 1, as amended, carry? All those in favour? The clerk is asking for a hand count. Opposed? That carries.

There are no amendments to sections 88, 89, 90 and 91, so I’ll put the question. Shall sections 88 to 91 of schedule 1 carry? All those in favour? Opposed? That carries.

We’ll move to section 92, and there’s a government motion on page 53. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 92 of schedule 1 to the bill be struck out and the following substituted:

“Notice, opportunity to rectify and make submission

“92(1) A service manager may exercise a remedy under section 87 in respect of an occurrence of a triggering event only if,

“(a) the service manager has given the housing provider a written notice that complies with subsection (2);

“(b) the triggering event continues following the last day of the period referred to in clause (2)(c), and the service manager has subsequently given the housing provider a written notice that complies with subsection (4);

“(c) the service manager has given the housing provider an opportunity to make a submission to the service manager in accordance with clause (4)(c); and

“(d) the service manager has considered the submission if a submission is made, made a decision, and provided the housing provider with notice of the decision and the reasons for it.

“Content of notice of triggering event

“(2) The notice referred to in clause (1)(a) must,

“(a) specify the particulars of the occurrence of the triggering event or events;

“(b) specify what if anything the housing provider must do or refrain from doing to rectify the situation that gave rise to the occurrence of the triggering event or events in order to avoid an exercise of a remedy or remedies;

“(c) specify the period within which the housing provider must comply with the notice, which may not be less than 60 days from the date the notice is given; and

“(d) if the notice provides for the submission of a plan by the housing provider, specify the matters that must be addressed in the plan.

“Training requirement

“(3) Without restricting the generality of clause (2)(b), for the purposes of that clause, a service manager may require a housing provider to ensure that any or all of the following persons receive training:

“1. A director, employee or agent of the housing provider.

“2. A person who has contracted with the housing provider to manage a part VII housing project on behalf of the housing provider.

“Content of notice regarding submission

“(4) The notice referred to in clause (1)(b) must,

“(a) specify the particulars of the occurrence of the triggering event or events;

“(b) specify the remedy or remedies that the service manager is considering exercising to address the triggering event or events and the reasons why the service manager is considering them;

“(c) inform the housing provider that it can make a written submission on the service manager’s proposed exercise of a remedy or remedies to the service manager by a date that is not less than 60 days after the date the notice is given;

“(d) inform the housing provider that if no submission is received within the period referred to in clause (c), the service manager will make a decision based on the information that is available to it; and

“(e) if the service manager is considering exercising the remedy under paragraph 4 of section 87, advise the housing provider of which powers the service manager would be exercising, which duties the service manager would be performing and the assets, liabilities or undertakings with respect to which it would be acting as the housing provider.

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“Exceptions

“(5) Subsection (1) does not apply if,

“(a) the triggering event is a contravention of section 162;

“(b) the housing provider is unable to pay its debts as they become due;

“(c) the housing provider has operated a designated housing project in a way that has resulted in,

“(i) significant physical deterioration of the housing project affecting the structural integrity of the housing project, or

“(ii) danger to the health or safety of the residents of the housing project;



“(d) a report of an audit or investigation of the housing provider alleges fraud, criminal activity or a misuse of the assets of the housing provider and the alleged fraud, criminal activity or misuse of assets has been referred to a law enforcement agency;

“(e) a designated housing project of the housing provider is subject to a mortgage guaranteed by the province of Ontario or the Ontario Mortgage and Housing Corporation and the mortgage is in default;

“(f) the number of directors of the housing provider has been less than the quorum needed for a meeting of the board of directors for a period of 90 days and remains less than the quorum; or

“(g) a circumstance exists that is prescribed for the purpose of this clause.

“Opportunity to make submission regarding court appointed receiver

“(6) Where a service manager is entitled to seek the appointment of a receiver or a receiver and manager under paragraph 7 of section 87, or to make an application for an extension of the appointment of an interim receiver or an interim receiver and manager under subsection 97(3), the service manager shall not make a decision to do so unless,

“(a) the service manager has first given the housing provider a written notice that complies with subsection (7);

“(b) the service manager has given the housing provider an opportunity to make a submission to the service manager in accordance with clause (7)(c); and

“(c) the service manager has considered the submission if a submission is made, made a decision, and provided the housing provider with notice of the decision and the reasons for it.

“Content of notice

“(7) The notice referred to in clause (6)(a) must,

“(a) specify the particulars of the occurrence or continuation of the triggering event or events and the circumstances in subsection (5) that are continuing;

“(b) specify that the service manager is considering making an application to seek the appointment of a receiver or a receiver and manager under paragraph 7 of section 87 or extend the appointment of an interim receiver or an interim receiver and manager under subsection 97(3) and the reasons why the service manager is doing so;

“(c) inform the housing provider that it can make a written submission on the service manager’s proposed exercise of the remedy or application for extension by a date that is not less than 60 days after the date the notice is given; and

“(d) inform the housing provider that if no submission is received by the date specified by the service manager under clause (c), the service manager will make a decision based on the information that is available to it.

“Decision not to exercise a remedy

“(8) If the service manager decides not to exercise a remedy specified in a notice referred in clause (1)(b) but the triggering event or events are continuing, the service manager shall not exercise that remedy unless the service

manager has given the housing provider a further written notice that specifies the particulars of the continuation of the triggering event or events and repeats the steps referred to in clauses (1)(c) and (d).

“Limitation

“(9) Subsection (8) does not apply if the service manager has decided to exercise the remedy only if specified events do not occur by a specified date.”

The service manager can move directly to a remedy in certain emergency situations when there’s a triggering event. If the service manager chooses not to proceed with the remedy, it still must give notice if it subsequently decides, in fact, to exercise a remedy. That is the intent of this section.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate or discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** First of all, our deputants have real problems with this section, and I’ll go into the reasons why.

Certainly, it’s strange that a government that is running a \$20-billion deficit and has doubled the debt could conceivably rush into a housing project because they’re unable to pay their debts or because, for example, of the deterioration of the housing project affecting the structural integrity. Guess what? If you don’t fund housing providers enough to keep up the structural integrity, that’s what’s going to happen—or in default of their mortgage.

The problem is, this expands the exceptions, and that’s a real problem. We, I hope, want to work with housing providers as long as we can to keep the housing stock affordable. Instead, what we’re allowing for here, in the midst of all this verbiage, is the increased privatization of housing stock across the province of Ontario. That’s exactly what’s going to happen, particularly in the city of Toronto, where, by the way, we have 70,000 families waiting for affordable housing. This could be a huge loophole that service managers could drive a truck through.

Quorum, for example: My goodness, how many times have we sat in the Legislature and we’ve had to ring the quorum bells?

What we’re doing is, we’re asking housing providers—we’re putting onerous demands on them in a way that gives the clout, yet again, to downloading to municipalities, and we know what’s going to happen. It’s happening. I just heard that 47 units are going to be released. This is a problem and we’re going to oppose it in the New Democratic Party, of course.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I’d just like to identify that in fact this motion would require service managers to look at procedural fairness before using a remedy against a housing provider, and that’s the intent.

**The Chair (Mr. Lorenzo Berardinetti):** Further debate?

**Mrs. Joyce Savoline:** While this doesn’t make it perfect, it certainly moves it in the right direction, so I will be supporting it.



**The Chair (Mr. Lorenzo Berardinetti):** We'll put a vote to the motion. All those in favour of the motion? All those opposed to the motion? The motion carries.

Shall section 92 of schedule 1, as amended, carry? All those in favour? I only see two hands up. Okay. Opposed? The motion carries.

We'll move to page 54, with respect to section 93. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 93 of schedule 1 to the bill be struck out and the following substituted:

"Discontinuation or suspension of subsidy

"93. A service manager shall not discontinue or suspend subsidy payments under paragraph 1 of section 87 unless the service manager is of the opinion that the triggering event is substantial."

This government motion would require the service manager to consider whether a triggering event was substantial before they actually proceed to discontinue or suspend a subsidy payment to a housing provider.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate on this?

**Mrs. Joyce Savoline:** I will support this, Mr. Chair. However, I think "substantial" needs to be defined.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Ms. Cheri DiNovo:** Obviously, we also oppose this. That language of the opinion, leaving it up to the service manager, not defining—again, a huge loophole that a municipality that's interested in privatizing housing stock will drive a truck through. This is McGuinty and Ford in alliance here; make no mistake about it. Anybody who is reading the Hansard here or anybody who is following these proceedings should be shocked and appalled. It's not every day we get a letter from the UN calling a provincial government to account for breaching international human rights law. That's right out of the gate, and then we have this.

I was just handed a note. I was wrong, and I would correct the record. It's not 47 units that are going to be privatized; it's 47 properties. That's what's on the chopping block, and this government is facilitating that. We're absolutely going to oppose it.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Zimmer, do you have a comment?

**Mr. David Zimmer:** No.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? So I'll put the motion to a vote. All those in favour? Opposed? The motion carries.

Shall section 93 of schedule 1, as amended, carry? All those in favour? All those opposed? The section carries.

We move on, then, to the next motion, government motion 55. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 94 of schedule 1 to the bill be struck out and the following substituted:

"Exercise of powers, etc., by service manager

"94(1) This section applies with respect to the exercise of the remedy under paragraph 4 of section 87 to either

exercise powers or perform duties of a housing provider or to act as the housing provider with respect to all or part of the assets, liabilities and undertakings of the housing provider, including its housing projects.

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"Time limit

"(2) The maximum period during which a service manager may exercise the remedy in respect of a triggering event or events is two years unless,

"(a) the period is extended by agreement with the housing provider; or

"(b) the service manager has extended the period, for no more than one year for each extension, after having first given the housing provider a further written notice that specifies the particulars of the continuation of the triggering event or events and having repeated the steps referred to in clauses 92(1)(c) and (d).

"Requirement re property managers

"(3) A service manager shall not retain a property manager to act on its behalf in the exercise of the remedy in relation to a housing provider unless the service manager is of the opinion,

"(a) if the property manager is an individual, that the property manager is knowledgeable about this act and the transferred housing program or programs under which the housing provider's housing project or projects operate and,

"(i) if the housing provider is a non-profit housing corporation, the property manager is knowledgeable about the structure and operation of non-profit housing corporations, or

"(ii) if the housing provider is a non-profit housing co-operative, the property manager is knowledgeable about the structure and operation of non-profit housing co-operatives; or

"(b) if the property manager is not an individual, that the staff of the property manager are knowledgeable about this act and the transferred housing program or programs under which the housing provider's housing project or projects operate and,

"(i) if the housing provider is a non-profit housing corporation, the staff of the property manager are knowledgeable about the structure and operation of non-profit housing corporations, or

"(ii) if the housing provider is a non-profit housing co-operative, the staff of the property manager are knowledgeable about the structure and operation of non-profit housing co-operatives.

"Appointment by agreement

"(4) A property manager retained to act on the service manager's behalf in the exercise of the remedy shall be appointed under an agreement between the service manager and the property manager.

"Time limit

"(5) The term of the appointment of the property manager shall be determined under the agreement retaining the property manager.

"Qualification on time limit



“(6) Subsection (5) does not limit the retention of a property manager in respect of a different occurrence of a triggering event.

“Termination, etc.

“(7) Despite anything to the contrary in the agreement appointing a property manager, the service manager may, without the consent of the property manager, terminate or shorten the appointment at any time.

“Copy of agreement to housing provider

“(8) The service manager shall give the housing provider a copy of any agreement appointing a property manager and any amendment to the agreement.

“Powers

“(9) For greater certainty, section 162 applies to a service manager exercising the remedy.

“Powers not included

“(10) The powers of a service manager do not include the power to sell, convey, lease, assign, give as security or otherwise dispose of the assets of the housing provider, including its housing projects, outside of the ordinary course of business.

“Use of powers

“(11) The service manager may only use its powers with the objective of returning control to the housing provider and only for the following purposes:

“1. To carry on the business of the housing provider.

“2. To improve the governance of the housing provider.

“3. To stabilize or improve the financial situation of the housing provider.

“Return of control

“(12) When it is appropriate, in the opinion of the service manager, to return control to the housing provider, the service manager shall cease exercising the remedy.

“Duty to co-operate

“(13) The housing provider shall co-operate with the service manager and any property manager retained by the service manager to act on its behalf in the exercise of the remedy, give the service manager and property manager full access to the housing provider’s books and records, and not take any action to reverse or set aside the acts or omissions of the service manager or property manager.

“Ratification of acts of service manager, etc.

“(14) The housing provider is deemed to ratify and confirm what the service manager and any property manager retained by the service manager to act on its behalf in the exercise of the remedy do during the exercise of the remedy, but only with respect to things done in accordance with this act and the regulations.

“Release of service manager, etc.

“(15) The housing provider is deemed to release and discharge the service manager and the property manager and every person for whom the service manager or property manager is responsible from every claim of any nature arising by reason of any act or omission done or omitted during the exercise of this remedy, other than the following claims:

“1. A claim for an accounting of the money and other property received by the service manager or property manager or another person for whom the service manager or property manager is responsible.

“2. A claim arising from negligence or dishonesty by the service manager or property manager or by another person for whom the service manager or property manager is responsible.

“Expenses of service manager

“(16) If the service manager exercises the remedy,

“(a) the service manager may bill the housing provider for expenses incurred by the service manager in exercising the remedy;

“(b) the housing provider shall pay an amount billed under clause (a) at the time specified by the service manager; and

“(c) an amount billed under clause (a) is a debt owing from the housing provider to the service manager and may be recovered by reducing the amount of any subsidy required under section 80 or by any remedy or procedure available to the service manager by law.

“Remuneration

“(17) For greater certainty, the remuneration of the property manager shall be determined under the agreement retaining the property manager and shall be paid out of the funds of the housing provider.

“Reports to housing provider

“(18) During the period when the remedy is being exercised, the service manager shall give the housing provider, at least every three months, a written report that includes a summary of what the service manager has done in the exercise of the remedy.”

The government motion would expand upon the remedies, allowing the service managers to act as or perform duties of the housing provider, either directly or indirectly through a property manager, by placing limits on the service manager’s use of powers under this remedy; requiring the housing provider to co-operate; prohibiting the service manager from transferring the property; specifying the goal of restoring control to the provider when appropriate; limiting the term of this remedy to two years; and providing a limited release from liability for both the service manager and any property manager.

**The Chair (Mr. Lorenzo Berardinetti):** That’s a mouthful. Any further debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** I notice you automatically put my light on, Mr. Chair, before I put my hand up.

**The Chair (Mr. Lorenzo Berardinetti):** It’s habit.

**Ms. Cheri DiNovo:** I gather that there are some provisions in this that our co-operative housing federation is looking forward to. There are concerns in the New Democratic Party still about the onerous requests upon those who run non-profit housing in terms of expenses, access to books etc.

I’m going to give the government the benefit of the doubt on this one, but again, a very problematic approach. It seems to me, just generally, that the government has listened extensively to service managers and



perhaps not as extensively to all of those who've deputed for non-profit housing.

The other thing I would like to mention is that we've had 24 hours to look at all of this. I think—what, did we have three days of deputations? The rush with which the government is plowing ahead with this is also problematic.

In short, I'm going to abstain from this. The government is going to pass it anyway.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? Okay, then we'll vote on the motion on page 55. All those in favour of the motion? Opposed? The motion carries.

Shall section 94 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

The next motion is in section 95. There's an NDP motion on page 56. Ms. DiNovo?

**Ms. Cheri DiNovo:** I move that section 95 of schedule 1 to the bill be amended by adding the following subsection:

“Purpose of supervisory management

“(1.1) The purpose of supervisory management is to correct governance and other problems of the housing provider so that the housing provider will, in due course, be able to operate independently and in a manner consistent with the normal practices of similar housing providers.”

Certainly, CHF asked for this. I think it's important that the bill state what the actual purpose of supervisory management is at some point. I think that would help guide them. I know the government is going to say they've just done that, but I think it's always helpful to state, in a sense, a mission statement: what this role is supposed to be and how they're supposed to act.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll put the motion on page 56 to a vote. All those in favour of the motion? All those opposed? The motion does not carry.

1520

We have on page 57 a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 95 of schedule 1 to the bill be struck out and the following substituted:

“Operational advisor

“95(1) This section applies with respect to the exercise of the remedy to appoint an operational advisor for a housing provider under paragraph 5 of section 87.

“Requirement re operational advisors

“(2) A service manager shall not appoint an operational advisor for a housing provider unless the service manager is of the opinion,

“(a) if the operational advisor is an individual, that the operational advisor is knowledgeable about this act and the transferred housing program or programs under which the housing provider's housing project or projects operate and,

“(i) if the housing provider is a non-profit housing corporation, the operational advisor is knowledgeable

about the structure and operation of non-profit housing corporations, or

“(ii) if the housing provider is a non-profit housing co-operative, the operational advisor is knowledgeable about the structure and operation of non-profit housing co-operatives; or

“(b) if the operational advisor is not an individual, that the staff of the operational advisor are knowledgeable about this act and the transferred housing program or programs under which the housing provider's housing project or projects operate and,

“(i) if the housing provider is a non-profit housing corporation, the staff of the operational advisor are knowledgeable about the structure and operation of non-profit housing corporations, or

“(ii) if the housing provider is a non-profit housing co-operative, the staff of the operational advisor are knowledgeable about the structure and operation of non-profit housing co-operatives.

“Appointment by agreement

“(3) The operational advisor shall be appointed under an agreement between the service manager and the operational advisor.

“Purpose

“(4) The purpose of an operational advisor is to provide written recommendations and advice to the housing provider and the service manager on how the housing provider may improve all or part of the operation of its housing project or projects as stipulated in the agreement appointing the operational advisor.

“Time limit

“(5) The term of the appointment of the operational advisor shall be determined under the agreement appointing the operational advisor, but shall not exceed two years unless extended with the agreement of the housing provider.

“Qualification on time limit

“(6) Subsection (5) does not limit the appointment of an operational advisor in respect of a different occurrence of a triggering event.

“Termination, etc.

“(7) Despite anything to the contrary in the agreement appointing the operational advisor, the service manager may, without the consent of the operational advisor, terminate or shorten the appointment at any time.

“Copy of agreement to housing provider

“(8) The operational advisor shall give the housing provider a copy of the agreement appointing the operational advisor and any amendment to the agreement.

“Remuneration

“(9) The remuneration of the operational advisor shall be determined under the agreement appointing the operational advisor and shall be paid out of the funds of the housing provider.

“Duty to co-operate

“(10) The housing provider shall co-operate with the operational advisor, give the operational advisor full access to the housing provider's books and records, and consider any recommendations or advice that the oper-



ational advisor provides to the housing provider on how to improve the operation of the housing project or housing projects.

“Release of service manager and operational advisor, etc.

“(11) The housing provider is deemed to release and discharge the service manager and the operational advisor and every person for whom the service manager or the operational advisor is responsible from every claim of any nature arising by reason of any act or omission done or omitted during the operational advisor’s appointment, other than claims arising from negligence or dishonesty by the operational advisor or by another person for whom the service manager or operational advisor is responsible.”

In essence, the government motion would replace the remedy of a supervisory manager with new provisions to permit the appointment of an operational adviser as a remedy. Under this remedy, the provider’s board of directors would remain in place with continued authority over the operation of the housing project. Operational advisers would be appointed by a service manager, as you heard, for a maximum of two years to provide advice and recommendations to assist the housing provider with operational issues.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** Yes. It’s a chance, actually, to talk about co-operative housing. I understand that a number of the changes required by the co-operative housing federation have been incorporated, except some, strangely, have not, including a number of clarifications about the roles of supervisory managers, which do not appear to have been incorporated and were asked for. Suffice to say that we did a housing visioning process at Parkdale, and David Crombie came and talked about what is still the gold standard for housing projects in many places around the world, and that is St. Lawrence Market, and how that came to be. Again, you’ve got mixed use; you’ve got co-ops; you’ve got affordable housing; and it all works together in a wonderful community. He said, it was pointed out, that it all started with a co-op. I think we need, certainly, to do everything we can to make co-operative housing possible. We’ve hampered it severely in recent years. I certainly hope that this government is committed to doing that. It seems there are two steps forward, one step back here. But, as such, we’re going to let it slide and I’ll simply abstain.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Savoline.

**Mrs. Joyce Savoline:** I’m going to support it, but I see this as an interim step moving towards the right direction. If the government were really serious about moving in this way, it would be mandated. I’m hoping for the best, so while it doesn’t exactly say that governance is being returned, it does say the government is working on the problem. Like I say, if there was some real seriousness to this, it would be mandated. But in good faith, I’m going to support it.

**The Chair (Mr. Lorenzo Berardinetti):** We’ll then vote on the motion on page 57. All those in favour of the motion? Opposed? That carries.

I’ll ask the question, then: Shall section 95 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

The next motion is a government motion on page 58, Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 96 of schedule I to the bill be struck out and the following substituted:

“Restriction on appointment of receiver, etc.

“96. A service manager may appoint an interim receiver or interim receiver and manager under paragraph 6 of section 87, or seek the appointment of a receiver or receiver and manager under paragraph 7 of section 87, only if one of the situations listed in subsection 92(5) is continuing.”

The explanation for this particular motion is that it requires both a triggering event and an emergency situation. The designated emergency situations, for example, could be that the housing provider isn’t solvent; there is significant physical deterioration to the building, structural integrity issues, danger to health and safety; an auditor investigation for alleged fraud; etc. That’s the purpose of this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** Again, we’re concerned. Some of our deputants—the co-operative housing federation and others—are concerned about the role of the service manager and concerned about the triggering events, and if that’s significant, who decides, as well as the reasonability of providers to pay anything, quite frankly, in terms of his or her role here. This doesn’t address that. Again, I’m inclined to oppose. I think I’ll abstain. It’s problematic, just generally—the next few amendments.

**The Chair (Mr. Lorenzo Berardinetti):** Further discussion? None? We’ll put the motion to a vote.

All those in favour of the motion? All those opposed to the motion? The motion carries.

I’ll put the question: Shall section 96 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

I move to a government motion on page 59 of our package. Ms. Cansfield.

1530

**Mrs. Donna H. Cansfield:** I move that section 97 of schedule 1 to the bill be struck out and the following substituted:

“Service manager—appointed receiver, etc.

“97(1) This section applies with respect to the exercise of the remedy to appoint an interim receiver or interim receiver and manager under paragraph 6 of section 87.

“Time limit

“(2) The maximum period during which there may be an interim receiver or interim receiver and manager is 180 days.

“Extension by court



“(3) The Superior Court of Justice may, on application of the service manager, extend the maximum period under subsection (2).

“Qualification on time limit

“(4) Subsection (2) does not limit the appointment of an interim receiver or interim receiver and manager in respect of a different occurrence of a triggering event.

“Appointment by agreement

“(5) The interim receiver or interim receiver and manager shall be appointed under an agreement between the service manager and the interim receiver or interim receiver and manager.

“Termination, etc.

“(6) Despite anything to the contrary in the agreement appointing the interim receiver or interim receiver and manager, the service manager may, without the consent of the interim receiver or interim receiver and manager, terminate or shorten the appointment at any time.

“Return of control

“(7) When it is appropriate, in the opinion of the service manager, to return control to the housing provider, the service manager shall terminate the appointment of the interim receiver or interim receiver and manager.

“Copy of agreement to housing provider

“(8) The interim receiver or interim receiver and manager shall give the housing provider a copy of the agreement appointing the interim receiver or interim receiver and manager and any amendment to the agreement.

“Powers

“(9) The interim receiver or interim receiver and manager has the prescribed powers, subject to subsection (10) and any limits in the agreement appointing the interim receiver or interim receiver and manager.

“Powers continued

“(10) The powers of an interim receiver do not include the power to sell, convey, lease, assign, give as security or otherwise dispose of the assets of the housing provider, including its housing projects, outside of the ordinary course of business of the housing provider.

“Powers are exclusive

“(11) The powers of the interim receiver or interim receiver and manager are exclusive and no other person may exercise those powers during the appointment of the interim receiver or interim receiver and manager.

“Restriction on dealing with housing project

“(12) For greater certainty, section 162 applies to an interim receiver or interim receiver and manager.

“Remuneration

“(13) The remuneration of the interim receiver or interim receiver and manager shall be determined under the agreement appointing the interim receiver or interim receiver and manager and shall be paid out of the funds of the housing provider.

“Duty to co-operate

“(14) The housing provider shall co-operate with the interim receiver or interim receiver and manager and give the interim receiver or interim receiver and manager full access to the housing provider's books and records.

“Ratification of acts of receiver, etc.

“(15) The housing provider is deemed to ratify and confirm what the interim receiver or interim receiver and manager does during the appointment of the interim receiver or interim receiver and manager, but only with respect to things done in accordance with this act, the regulations and the agreement appointing the interim receiver or interim receiver and manager.

“Release of receiver, etc.

“(16) The housing provider is deemed to release and discharge the service manager and the interim receiver or interim receiver and manager and every person for whom the service manager and the interim receiver or interim receiver and manager is responsible from every claim of any nature arising by reason of any act or omission done or omitted during the appointment of the interim receiver or interim receiver and manager, other than the following claims:

“1. A claim for an accounting of the money and other property received by the interim receiver or interim receiver and manager or another person for whom the interim receiver or interim receiver and manager is responsible.

“2. A claim arising from negligence or dishonesty by the interim receiver or interim receiver and manager or by another person for whom the interim receiver or interim receiver and manager is responsible.

“Reports to housing provider

“(17) Every three months, the interim receiver or interim receiver and manager shall give the housing provider and service manager a written report that includes,

“(a) a summary of what the interim receiver or interim receiver and manager has done during the period covered by the report;

“(b) a summary of what the interim receiver or interim receiver and manager proposes to do in the future;

“(c) a summary of the operations of the housing provider during the period covered by the report; and

“(d) a general description of the financial situation of the housing provider.

“Not bound by proposed actions

“(18) The interim receiver or interim receiver and manager is not required to do anything or prevented from doing anything only because it was included or not included in a report under clause (17)(b).

“Reports to cover entire appointment period

“(19) The interim receiver or interim receiver and manager shall make reports under subsection (17) covering the entire period of the appointment of the interim receiver or interim receiver and manager, even if that requires a report to be made after the end of the appointment of the interim receiver or interim receiver and manager.

“Access by housing provider

“(20) The interim receiver or interim receiver and manager shall give the housing provider access to the books and records of the housing provider at reasonable



times during the appointment of the interim receiver or interim receiver and manager.

“Limit on report requirements

“(21) Subsections (17) and (20) do not require the disclosure of information that, in the opinion of the interim receiver or interim receiver and manager, may relate to fraud or other criminal activity by a director, member or employee of the housing provider.

“Restriction

“(22) An interim receiver or interim receiver and manager may not be the same person as a property manager retained to act on behalf of the service manager in the exercise of paragraph 4 of section 87 or an operational advisor appointed under paragraph 5 of section 87 in respect of the housing provider.”

The government motion would amend the powers and limitations of an appointed interim receiver or interim receiver and manager. As you heard, it could only be in place for 180 days, unless extended by the courts. Definitely, powers do not include the power to sell property, and the receiver must provide written reports to the provider and the service manager on its actions every three month.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Ms. Cheri DiNovo:** Yes, I was interested in the explanation, however brief, given by the government. But we in the New Democratic Party have serious concerns with a number of sections in here.

First of all, the goals of receivership aren't very clearly defined in terms of getting this housing back and running as affordable housing and non-profit housing.

The maximum period, 180 days: Why not 60 days? Sixty days seems far more reasonable to us.

Also, yes, it's good that they can't dispose of the property in that 180-day period, but again, we've got this language: “(7) When it is appropriate, in the opinion of the service manager, to return control to the housing provider....” I think this is very scary stuff, particularly in the current political climate.

It's amazing how many rules and regulations and amendments have to do with carving up the last of available affordable housing, and how few—well, there's none; there's no new housing in this bill.

Yes, this scares us. No, we won't be voting for it. We're opposing.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. Savoline?

**Mrs. Joyce Savoline:** It's consistent with my previous comments. This is moving to more middle ground. The changes are moderate, but they're in the right direction. At least the 180 days will shorten the process, and it does establish a timeline.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Mrs. Donna H. Cansfield:** I'd just like to reiterate that this new ability would be extremely scoped, so you know that we'd be protecting the interests of the provider and that that's an important part in regulation.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion. All those in favour of the motion? All those opposed? The motion carries.

Now I'll put the question: Shall section 97 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

There are no amendments to section 98, so I'll put the question: Shall section 98 of schedule 1 carry? All those in favour? Opposed? That carries.

We'll go to section 99. On page 60, there's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsection 99(1) of schedule 1 to the bill be amended by striking out “paragraph 6 or 7” and substituting “paragraph 7”.

This is a technical motion that actually would remove a duplicated and unnecessary reference.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? None? I'll put the question. All in favour of the motion? Opposed? The motion carries.

1540

Shall section 99 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We'll move to section 100 on page 61. This is a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsection 100(6) of schedule 1 to the bill be amended by striking out “the current directors” at the end and substituting “the current directors, if any”.

The reason for this motion is it clarifies that a service manager can appoint directors to the board of a housing provider in situations where no directors remain on the board of a housing provider, but also, before appointing the director as a remedy, to first consult with the current directors, if any, of the housing provider. It's a technical amendment which merely clarifies that if there are no current directors to consult with, then the service manager could actually just exercise the remedy of appointing directors.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? We'll put the motion to a vote. All those in favour of the motion? Opposed? The motion carries.

Now I'll ask the question. Shall section 100 of schedule 1, as amended, carry? All those in favour? All those opposed? That carries.

There's a new section. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that schedule 1 to the bill be amended by adding the following section:

“Solicitor-client privilege

“100.1(1) Despite subsections 94(13), 95(10) and 97(14), the housing provider is not required to provide the service manager, a property manager, an operational advisor, an interim receiver or an interim receiver and manager with access to any records or documents that are solicitor-client privileged and relate to a proceeding, or bringing a proceeding, involving any such party.

“No waiver

“(2) The provision of access to books and records under subsection 94(13), 95(10) or 97(14) does not



constitute a waiver of any applicable solicitor-client privilege.”

In essence, this motion would provide that the housing provider is not required to provide the service manager with any client-privileged information or records relating. This is to protect.

It also clarifies that when a housing provider does provide access to its records in accordance with the remedy provisions, that it does not constitute a waiver of solicitor-client privilege. In essence, it protects the housing provider on both fronts.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate on new section 100.1? Ms. DiNovo.

**Ms. Cheri DiNovo:** Finally, something for the poor, beleaguered housing provider. Yes, we will support this.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? I’ll put the question. Shall new section 100.1 carry? All those in favour? Opposed? That carries.

There is a new section, section 100.2, and there is a motion from the government on page 63. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that schedule 1 to the bill be amended by adding the following section:

“Required review

“100.2 The minister shall, by the prescribed date, undertake a review of sections 84 to 100.1 of this act.”

The government motion would require review of the enforcement provisions by a prescribed date to ensure that they meet the intent of the legislation and remain effective.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? None? I’ll put the motion to a vote. All those in favour of new section 100.2? All those opposed? The motion carries.

There are no motions for sections 101 and 102, so I’ll put the question. Shall section 101 and section 102 carry? All those in favour? All those opposed? That carries.

We’ll move to section 103 on page 64. Ms. Savoline.

**Mrs. Joyce Savoline:** I’ve put this amendment forward at the request of the municipalities.

*Interjection.*

**Mrs. Joyce Savoline:** Sorry; I have to read it in.

I move that subsection 103(1) of the bill be amended by adding “or” at the end of clause (b), by striking out “or” at the end of clause (c), and by striking out clause (d).

As I said, this is at the request of municipalities. They’re liable for any costs in the federal agreement, and this leaves them vulnerable to that cost. We don’t know; it’s unpredictable; it’s an unknown cost. They would have to accept the cost that can be considered a liability in the social housing agreement. Because it’s unknown, it’s like another downloading, especially of an unknown liability.

Having come from a municipality and understanding how vulnerable they are to added costs, it’s not acceptable to me that they accept this section. I’m asking the government to accept this amendment in good faith with their good relationship with municipalities.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Under Bill 140, service managers will be able to give consent to the mortgaging of social housing projects, and therefore the service managers’ decisions may impact the province’s contingent liability under the social housing agreement with the federal government. The language of the bill simply clarifies the province’s current ability under the SHRA to recover costs that it incurs under the Canada-Ontario social housing agreement. So we won’t be able to support this amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** Unfortunately, it’s kind of a confusing motion that we in the New Democratic Party will not be able to support. Again, it was a confusing motion; I agree with the parliamentary assistant on this one. We’re not going to support it.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We’ll put the motion to a vote. All those in favour of the motion? All those opposed? The motion does not carry.

Then I’ll ask, shall section 103 of schedule 1 carry? All those in favour? Those opposed? That carries.

There are no motions from section 104 to section 110, so I’ll put the question: Shall sections 104 to 110, inclusive, carry? All those in favour? Opposed? That carries.

We’ll move on to section 111. That’s motion 65. It’s a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 111 of schedule 1 to the bill be amended by adding the following subsections:

“Lower-tier municipalities

“(6) Where a municipality described in subsection (1) is an upper-tier municipality, subsections (3) to (5) do not apply with respect to the individual lower-tier municipalities within the upper-tier municipality.

“Interpretation

“(7) For the purposes of this section, ‘lower-tier municipality’ and ‘upper-tier municipality’ have the same meaning as in the Municipal Act, 2001.”

The explanation is, the government motion would clarify that service managers are only required to apportion cost to the upper-tier municipalities in cases where the service area includes municipalities lying outside of the municipal boundaries of the service manager.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? None? We’ll put the motion to a vote. All those in favour of the motion? All those opposed? The motion carries.

Shall section 111 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We’ll move on, then, to the next motion, which is motion 66. It’s a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 112 of schedule 1 to the bill be amended by adding the following subsection:

“Billing periods

“(1.1) The billing periods for a service manager shall be determined by the service manager.”



The reason for this motion is that it will allow the DSSAB service managers to set billing periods for the purpose of billing municipalities in their service areas.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Ms. DiNovo?

**Ms. Cheri DiNovo:** Yes, we're going to vote for this. It's not a problem. It allows one to make the point that at no time should the housing providers have to foot the bill. Again, very precious and rare housing dollars should not be going to service managers in any way, shape or form.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? We'll vote on the motion. All those in favour of the motion? All those opposed? The motion carries.

There are no amendments from sections 113 all the way until section 154, so I'll put the questions together. Shall sections 113 to section 154 of schedule 1 carry? All those in favour? Opposed? That carries.

We'll move on to section 155. On page 67, there is an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that clause 155(3)(a) of schedule 1 to the bill be struck out and the following substituted:

"(a) provision for an independent three-member review body to hear oral appeals, including rules for the appointment and removal of members and their remuneration; and"

This is something that many deputants asked for. Certainly, ONPHA, CFH and ACTO asked for this. It just makes sense. The city of Ottawa does this. We need to have more safeguards. We need reviews of service managers.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Savoline.

**Mrs. Joyce Savoline:** I'll support it. It just puts some meat on the bones.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the motion to a vote. All those in favour of the motion? All those opposed? The motion does not carry.

Shall section 155 of schedule 1 carry? All those in favour? Opposed? That carries.

We'll move to section 156. There's a motion on page 68. Ms. Savoline.

**Mrs. Joyce Savoline:** I move that section 156 of schedule 1 to the bill be amended by adding the following paragraph:

"2.1 A decision with respect to the deferral of rent-geared-to-income payable."

Just notice that under the SHRA, a household could request an internal review with respect to a deferral of RGI rent. I don't know why that isn't present here in this bill. That's why I brought this forward.

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** It's similar to an amendment we're about to put forward as well, again, required by non-profit housing providers. We're going to support it.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? I'll put the motion to a vote. All those in

favour of the motion? All those opposed? That does not carry.

The next is an NDP motion on page 69. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 156 of schedule 1 to the bill be amended by adding the following paragraph:

"4.1 A decision of a service manager under section 53 to deny an application to defer all or part of the rent payable by a household."

It's similar, as I said. It's a sad day when the Progressive Conservatives are more progressive than our Liberal friends.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Ms. Cansfield?

**Mrs. Donna H. Cansfield:** Actually, it's preferable that these decisions are at the discretion of the service manager. There's absolutely nothing in this bill that precludes the service manager from voluntarily agreeing to review these decisions—nothing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate?

**Ms. Cheri DiNovo:** There's nothing that asks them to, either. That shows the huge ideological and philosophical divide between these two sides.

**The Chair (Mr. Lorenzo Berardinetti):** I'll put the motion to a vote. All those in favour of the motion? All those opposed? The motion does not carry.

Shall section 156 of schedule 1 carry? All those in favour? Opposed? That carries.

Is there a vote in the House? We will suspend so we can go and vote.

*The committee recessed from 1554 to 1608.*

**The Chair (Mr. Lorenzo Berardinetti):** I call the meeting back to order.

Just one procedural point: Way back in section 112—I know that we just finished section 156, but I didn't ask the question on section 112, which was, shall section 112 of schedule 1, as amended, carry? All those in favour? Opposed? Carried. Thank you.

We'll move on, then, to page 70. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 157 of schedule 1 to the bill be struck out and the following substituted:

"Reviews requested by housing providers

"157.(1) A housing provider may request a review of any of the following decisions of a service manager:

"1. A decision to reduce, discontinue or suspend subsidy payments.

"2. A decision to perform any of the duties and exercise any of the powers of a housing provider.

"3. A decision to appoint a supervisory manager.

"4. A decision to appoint a receiver or receiver and manager.

"5. A decision to remove some or all of the directors.

"6. A decision to appoint one or more individuals as directors, unless those individuals are replacing other directors who were appointed by the service manager.



"7. A decision to require the housing provider to prepare and follow plans under subsection 71(5).

"8. A change in the target for the number of rent-geared-to-income and modified units referred to in section 79.

"9. A decision to consent to a transfer of a housing project to the service manager, a local municipality or any related body.

"10. A decision to give a consent, or to refuse to give a consent, referred to in subsection 162(2).

"11. A decision prescribed for the purposes of this paragraph.

"Rules applicable if review requested

"(2) The following rules apply if a review of a decision is requested under subsection (1)

"1. Except in the case of an emergency or other circumstances in which failing to implement the decision may materially worsen the situation, no action shall be taken to implement the decision pending the completion of the review.

"2. If, under paragraph 1, action to implement the decision is implemented before the review has been completed, the review body shall complete the review as quickly as possible and shall include in its decision any steps that may be necessary as a result of action taken by the service manager pending the completion of the review.

"3. Despite paragraph 1, the housing provider requesting the review may agree voluntarily with the service manager to take action to implement all or part of the proposed decision of the service manager on an interim basis pending the completion of the review.

"4. If an agreement referred to in paragraph 3 is entered into, the review body shall not consider the agreement as a factor when making its decision, but shall include in its decision any steps that may be necessary as a result of action taken on an interim basis pursuant to the agreement.

"5. The right to request the review of the decision does not affect any rights a housing provider may have with respect to the service manager's decision-making process.

"6. The right to request the review and the results of the review do not limit or otherwise affect the housing provider's other rights and remedies."

In terms of explanation, this is something that has been asked for by a number of the deputants who came before us. The new act really doesn't detail how service manager decisions can be eligible for review. They are prescribed in regulation. Certainly, housing providers, in terms of evening up the playing field, need to have a chance to review the reviewer. That's really the essence of this. We don't want it left up to regulation. Who knows what that will look like? This needs to be embodied in the bill.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. I'm having trouble hearing. We're just trying to get them through as fast as possible and as thoroughly as possible. Any further discussion or debate? Ms. Savoline.

**Mrs. Joyce Savoline:** The devil is always in the details and the devil is the regulations. I think that what this amendment does is it lists what can be reviewed right in the legislation. I think that is a little bit more predictable. So rather than leave it up to regulation, I will support this amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll put the motion to a vote. All those in favour of the motion? All those opposed? The motion does not carry.

Shall section 177 of schedule 1 carry? All those in favour? All those opposed? That carries.

There are no amendments for section 158, so I'll put the question. Shall section 158 of schedule 1 carry? All those in favour? All those opposed? The section carries.

We'll move to section 158.1. It's a new section and the motion is on page 71. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that schedule 1 to the bill be amended by adding the following section:

"Rules for reviews requested by housing providers

"159.1(1) The following rules apply in respect of a decision of a service manager for which a housing provider may request a review under section 157:

"1. Before the service manager implements the decision that may be reviewed under section 157, it shall give the housing provider a copy of the decision.

"2. The housing provider may notify the service manager in writing, within 60 days after the service manager gives a copy of the decision to the housing provider, of the housing provider's desire to submit the decision for review by an arbitration board.

"3. The notice from the housing provider must contain the name of the housing provider's nominee to the arbitration board.

"4. Within 10 days after receipt of the notice from the housing provider, or such further time as is agreed to by the parties, the service manager shall inform the housing provider of the name of its nominee to the arbitration board.

"5. Within 20 days after the appointment of the service manager's nominee, or such further time as is agreed to by the two nominees, the two nominees shall appoint a third person to the arbitration board as its chair.

"6. If the service manager does not appoint a nominee or the two nominees do not appoint the third member as required under this section, the minister shall, on the request of either the housing provider or the service manager, make the appointment from a list of qualified arbitrators maintained by the minister.

"7. On the request of either party, and with the consent of the other party, the minister may appoint a settlement officer to endeavour to effect a settlement before the arbitration board begins to hear the arbitration.

"8. If a settlement is not achieved or no settlement is requested under paragraph 7, the arbitration board shall,

"i. conduct the arbitration in accordance with the regulations or, if regulations under subsection (2) are not made, under the Arbitration Act, 1991, and



“ii. issue a written decision with reasons to the parties within 30 days after completion of the board’s hearings.

“9. The decision of the arbitration board is final and binding on the housing provider and the service manager.

“10. The decision of a majority is the decision of the arbitration board but, if there is no majority, the decision of the chair governs.

“11. Each party shall pay the remuneration and expenses of its nominee to the arbitration board and one half of the remuneration and expenses of the chair of the arbitration board, regardless of whether the members of the arbitration board were appointed by the parties or the minister.

“12. If a housing provider is in receivership, or otherwise not in control of the housing project, the board of directors of the housing provider may act in the place of the housing provider under this section and may retain counsel to advise them and to represent the housing provider at the expense of the housing provider.

“13. A person appointed as a director of the housing provider by the service manager is deemed not to be a director for the purpose of paragraph 12, and a person removed as a director by the service manager is deemed to be a director for the purpose of paragraph 12.

“14. If the service manager has appointed or removed any directors of the housing provider and a quorum of directors does not remain in office after applying paragraph 13, the deadline referred to in paragraph 2 is extended by 30 days to permit new directors to be elected.

#### “Regulations

“(2) The Lieutenant Governor in Council may make regulations prescribing rules of procedure for arbitration boards constituted under this section, including rules relating to,

“(a) the nature of the proceeding;

“(b) the time and manner of giving notices;

“(c) the disclosure of documents and the provision of particulars and copies of documents in advance of the hearing;

“(d) the fixing of dates for hearings;

“(e) the manner of adducing evidence;

“(f) the administration of oaths and affirmations;

“(g) the right to make oral submissions;

“(h) the funding of counsel.”

The reason for this amendment: Again, we don’t want to leave this up to regulation. Who knows what will happen there? It’s recommended by CHF and other housing deputants who provide affordable housing to folk.

This committee should recognize how incredibly expensive it is to litigate matters, and there should be some kind of alternative to litigation, particularly where very valuable housing dollars are being used. That’s not the purpose of housing dollars, to be used in litigation. There’s got to be some other way than litigating when there are disagreements. So that’s the reason.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any debate? None. So we will vote on the motion. All in favour of the motion?

*Interjection.*

**The Chair (Mr. Lorenzo Berardinetti):** Actually, I should be saying—it is a new section. So, shall new section 158.1 carry? All those in favour? Opposed? It’s lost. It does not carry.

We’ll move, then, to section 159. There are no motions here, so I’ll just put the question. Shall section 159 of schedule 1 carry? All those in favour? Opposed? Carried.

Then we move to section 160. There’s an NDP motion on page 72. Ms. DiNovo?

**Ms. Cheri DiNovo:** I move that section 160 of schedule 1 to the bill be amended by striking out the definition of “transfer”.

This is, again, part of the deputation of just about every stakeholder who provides or is interested in affordable housing. We want to do everything possible to prevent privatization of our very scarce housing stock. This is one of the safeguards.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None? So I’ll put the question: Shall the motion carry? All those in favour? Opposed? That does not carry.

Shall section 160 of schedule 1 carry? All those in favour? Opposed? That carries.

We’ll move to section 161, page 73; an NDP motion. Ms. DiNovo?

**Ms. Cheri DiNovo:** It’s almost identical. I move that subsection 161(2) of schedule 1 to the bill be amended by striking out “transfer”—yet again.

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**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Ms. Cheri DiNovo:** The same as the last time.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We’ll vote on the motion. All those in favour of the motion? Opposed? That does not carry.

The next motion is number 74. It’s a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsection 161(2) of schedule 1 to the bill be amended by striking out “transfer, mortgage” and substituting “mortgage”.

The government motion is part of a group of motions that would require ministerial consent prior to the transfer of a housing project.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Ms. DiNovo.

**Ms. Cheri DiNovo:** It’s better than nothing, but we would like to see stronger safeguards put in place. We’re going to support it.

**The Chair (Mr. Lorenzo Berardinetti):** We’ll put the motion to a vote. All those in favour? Opposed? That carries.

We’ll go to page 75. It’s a government motion. Ms. Cansfield.



**Mrs. Donna H. Cansfield:** I move that section 161 of schedule 1 to the bill be amended by adding the following subsection:

“Consent required

“(2.1) A person may transfer the real property only with the written consent of the minister.”

**The Chair (Mr. Lorenzo Berardinetti):** Discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** Here's our problem: devil and deep blue sea. We don't think there should be a transfer allowed at all. Is it better that somebody has some oversight over it? I suppose so. What to do? It's like the question of what to do with the entire bill, really. Again, I'm going to support it, only because we didn't get what was really needed but this is better than nothing.

**The Chair (Mr. Lorenzo Berardinetti):** We'll take a vote on the motion. All those in favour of the motion? Opposed? The motion carries.

We'll go to the next motion, page 76. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 161 of schedule 1 to the bill be amended,

(a) by striking out “subsection (2)” in subsection (3) and substituting “subsections (2) and (2.1)”; and

(b) by striking out “subsection (2)” wherever it appears in paragraphs 1 and 3 of subsection (4) and substituting in each case “subsection (2) or (2.1)”.

This is really a technical motion, and it's a reference to a cross-reference. It's a technical change, and it's part of the group of motions that would require ministerial consent prior to the transfer of a housing project.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion or debate? None? We'll put the motion to a vote. All those in favour of the motion? Opposed? The motion carries.

We'll go to page 77. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** In a sense, it's probably out of order, but I'll read it anyway.

I move that subsection 161(5) of schedule 1 to the bill be amended by striking out “transfers”.

Again, our concern is about privatization.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? We'll put the motion to a vote. All those in favour of the motion? Opposed? That does not carry.

We'll go to page 78, a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsection 161(5) of schedule 1 to the bill be struck out and the following substituted:

“Consent for all future mortgages, etc.

“(5) The service manager may give a written consent, for the purposes of subsection (2), for all future mortgages and developments and the following apply with respect to such a consent:

“1. Where such a consent is given, subsection (2) ceases to apply in respect of the real property.

“2. The consent must be registered, in the form approved by the minister, under the Registry Act or the Land Titles Act.

“Consent for all future transfers, etc., minister:

“(5.1) The minister may give a written consent, for the purposes of subsection (2.1), for all future transfers and the following apply with respect to such a consent:

“1. Where such a consent is given, subsection (2.1) ceases to apply in respect of the real property.

“2. The consent must be registered under the Registry Act or the Land Titles Act.”

It's part of the group of motions requiring ministerial consent, and it's technical.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion or debate? None? We'll vote on the motion. All those in favour of the motion? Opposed? The motion carries.

We'll go to page 79, another government motion.

**Mrs. Donna H. Cansfield:** I move that paragraphs 1 and 2 of subsection 161(6) of schedule 1 to the bill be amended by striking out “subsection (2)” wherever it appears and substituting in each case “subsections (2) and (2.1)”.

Again, it's a technical change to a cross-reference.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? We'll vote on the motion. All those in favour of the motion? Opposed? The motion carries.

I'll put the question regarding section 161. Shall section 161 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

Moving to section 162 now: On page 80, there's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 162(2) of schedule 1 to the bill be amended by striking out “transfer or”.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any discussion?

**Ms. Cheri DiNovo:** Yes. Again, this is about privatization. I would warn my colleagues on the other side that even with ministerial oversight of this, if there's no commitment to retaining social housing and not transferring out—a very serious commitment—who knows, after the next election, who the housing minister will be and what their ideological position will be, so it's pretty scary. That's why we need stronger language.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion on the motion? We'll put it to a vote then. Shall the motion on page 80 carry? All those in favour? Opposed?

It was a tie vote. It was 3 to 3, so let me do this one more time.

We're on page 80. The motion is moved by Ms. DiNovo. All those in favour of the motion? Opposed?

**Mrs. Donna H. Cansfield:** Come on, guys, we're in favour.

**Ms. Cheri DiNovo:** You're kidding. I'm shocked.

**The Chair (Mr. Lorenzo Berardinetti):** The motion carries.

Page 81 is a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** We will be withdrawing this motion because motion 80 is passed, and it's identical to the motion approved previously.



**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll move to page 82. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 162(2) of schedule 1 be amended by adding at the end "and the consent of the minister".

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Mrs. Donna H. Cansfield:** Obviously we support a number of ministerial consents, but we don't require this on mortgages. So we will not be supporting it.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further debate? I'll put the question. Shall the motion carry? All those in favour? Opposed? That does not carry.

We'll go to page 83. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 162 of schedule 1 to the bill be amended by adding the following subsection:

"Same, minister

"(2.1) The housing provider may transfer the housing project or the land where it is located only with the written consent of the minister."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? Ms. DiNovo.

**Ms. Cheri DiNovo:** Again, we're extremely concerned, as are many stakeholders who want to see affordable housing, that this Bill 140 is a move to privatization. Again, I warn my colleagues opposite, who knows who the housing minister's going to be after October 6 or, for that matter, in the future? We need something stronger to prevent privatization than simply ministerial oversight, although that's usually a good thing.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? No? We'll put the motion to a vote then. All those in favour of the government motion on page 83? Opposed? The motion carries.

We'll go then to page 84. It's a government motion.

**Mrs. Donna H. Cansfield:** I move that section 162 of schedule 1 to the bill be amended,

(a) by striking out "subsection (2)" in subsection (3) and substituting "subsection (2) or (2.1)";

(b) by striking out "subsection (2)" in paragraph 1 of subsection (4) and substituting "subsections (2) and (2.1)"; and

(c) by striking out "subsection (2)" in paragraph 2 of subsection (4) and substituting "subsections (2) and (2.1)".

It's a technical cross-reference again.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? None? We'll take a vote on the motion on page 84. All those in favour of the motion? Opposed? The motion carries.

Then I'll put the question. Shall section 162 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

We'll go, then, to section 163 of schedule 1. On page 85, there's a government motion. Ms. Cansfield.

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**Mrs. Donna H. Cansfield:** I move that subsection 163(1) of schedule 1 to the bill be amended by striking out "at least 10 days before" and substituting "within 10 days of".

This government motion would require that a service manager, once they've decided to consent to a mortgage of a housing project, has to inform the minister within 10 days in writing of such a decision.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? None? We'll take a vote on the motion. All those in favour of the motion? Opposed? The motion carries.

Shall section 163 of schedule 1, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments for section 164, so I have to put the question. Shall section 164 of schedule 1 carry? All those in favour? Opposed? Carried.

We'll go to section 165. That's a government motion on page 86. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that section 165 of schedule 1 to the bill be amended,

(a) by striking out "subsection 161(2) or 162(2)" in subsection (1) and substituting "subsection 161(2) or (2.1) or 162(2) or (2.1)"; and

(b) by striking out "subsection 161(2)" in subsection (2) and substituting "subsection 161(2) or (2.1)".

Again, it's a cross-referenced technical amendment.

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion? We'll put the motion to a vote. All those in favour of the motion? Opposed? The motion carries.

Shall section 165 of schedule 1, as amended, carry? All those in favour? Opposed? That carries.

We'll go to the next motion on page 87. It's a government motion. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that subsection 166(8) of schedule 1 to the bill be amended by striking out "at least 10 days before" and substituting "within 10 days of".

This government motion would require that a service manager, once they've decided to consent to a corporate change of a housing provider, must inform the minister within 10 days in writing of such a decision.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any discussion or debate? We'll take a vote on the motion. All those in favour of the motion? Opposed? The motion carries.

Then I'll ask the question: Shall section 166 of schedule 1, as amended, carry? All those in favour? Opposed? It carries.

Section 167 has no amendments—sorry, there are whole sections here. There are no amendments between sections 167 and 181, so I'll group the question together. Shall section 167 to section 181 carry? All those in favour? Opposed? That carries.

That brings us to section 182. The government has a motion on page 88. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I move that clause 182(a) of schedule 1 to the bill be amended by striking out "section 37".



The motion would remove reference to section 37 of the bill since, as a result of another proposal, if it's accepted by the standing committee, section 37 would cease to exist.

**The Chair (Mr. Lorenzo Berardinetti):** Any other debate? None? We'll take a vote, then, on the motion. All those in favour? Opposed? The motion carries.

The next motion is on page 89. It's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that clause 182(a) of schedule 1 to the bill be amended by striking out "or section 80 or 164" and substituting "or section 164".

This is again probably out of order since the other motions were voted down.

**The Chair (Mr. Lorenzo Berardinetti):** Are you withdrawing it?

**Ms. Cheri DiNovo:** Sure, I'll withdraw.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. I'll put the question: Shall section 182 of schedule 1, as amended, carry? All those in favour? Opposed? It carries.

The next motion that comes up—let me do the sections here. There are no amendments from section 183 all the way to section 187. I'll put the question: Shall sections 183 to 187 be carried? All those in favour? Opposed? Carried.

Then we go to section 188. On page 90, there's an NDP motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that subsection 188(3) of schedule 1 to the bill be struck out and the following substituted:

"(3) Section 203 of the act is repealed and the following substituted:

"Determinations related to housing assistance

"(203) The board may make determinations or review decisions concerning,

"(a) eligibility for rent-geared-to-income assistance as defined in the Housing Service Act, 2010 or the amount of geared-to-income rent payable under that act; or

"(b) eligibility for, or the amount of, any prescribed form of housing assistance."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion or debate?

**Ms. Cheri DiNovo:** Yes. This is from ACTO, but it's not only from ACTO. We're all very aware of the Al Gosling situation and the LeSage review. This was asked for by that review, that there be some way of reviewing and of making more transparent the rules under which rent-geared-to-income is enforced. We definitely need a review. That's why we need this.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? None? We'll put the motion to a vote. All those in favour of the motion? Opposed? It does not carry.

I'll put the question: Shall section 188 of schedule 1 carry? All those in favour? Opposed? The section carries.

Sections 189 and 190 have no amendments, so we'll put them together. Shall sections 189 and 190 carry? All those in favour? Opposed? That carries.

Now we go to schedule 1, as amended, the whole schedule. Shall schedule 1, as amended, carry? All those in favour? Those opposed? That carries.

Now we'll go on to schedule 2. Shall section 1 of schedule 2 carry? All those in favour? Opposed? That carries.

Now we get to schedule 2, section 2. There is a motion on page 91. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 2 of schedule 2 to the bill be amended by adding the following subsection:

"(2) Section 16 of the act is amended by adding the following subsection:

"Inclusionary housing policies

"(4) Without limiting what an official plan is required to or may contain under subsection (1) or (2), an official plan may contain policies that authorize a required percentage of residential housing units in all new housing developments in the municipality be affordable to low and moderate income households."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion?

**Ms. Cheri DiNovo:** Oh, boy, there is, yes. Just about every deputation supported inclusionary zoning. This very government supported inclusionary zoning. In fact, Dwight Duncan, to quote him, said he was supportive of it and wanted to do it right. The parliamentary assistant, Donna Cansfield, at second reading in the House, supported it. That was Bill 58, my bill calling for inclusionary zoning.

Let me be very, very clear about what that bill did. It was not prescriptive at all. It was a very small bill that just opened up the Planning Act and allowed municipalities, if they so chose—that's so important, if they choose—to bring in inclusionary zoning requirements. That's the only thing my bill did.

Unfortunately, it was buried at committee. It wasn't allowed to get to committee. That's very sad. But here's a chance, now that we've opened up this again with Bill 140, to do it right.

Really, all we're suggesting, again, not prescriptively—and remember, my Bill 58 got strong support from municipalities across Ontario. Even those that may not want to enact inclusionary zoning wanted the ability to look at it and do so if they so chose in the future. Inclusionary zoning is at work in a number of American jurisdictions and around the world. It's a tax-free way of providing affordable housing. In fact, we looked at the number of new developments—let's say a municipality decided to enact it at the rate of 10% for developments over 50 units. Even that, a very conservative estimate, would have provided about 13,000 new units of affordable housing per year during the mandate of this government. That would have gone a long way without spending a tax dollar to providing affordable housing.

Certainly, it's working in other jurisdictions. We've got proof of that, if anybody is interested. We had support from the House, and we've had support from



municipalities. Now I'm looking for support from the committee to make this an option.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

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**Mrs. Donna H. Cansfield:** I'd just like to share that under section 37, currently there is provision for inclusionary housing, and that is negotiation. I think it's Councillor Adam Vaughan who has actually used that section to have that occur now. Because we have section 37, which works to that end, we will not be supporting the amendments for inclusionary housing.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Ms. DiNovo?

**Ms. Cheri DiNovo:** Yes, I beg to differ. Section 37 dollars—Adam Vaughan is a huge supporter of Bill 58; he was here at the launch and supports it. Section 37 is simply monies to negotiate between a city councillor and a developer. It has nothing to do with housing necessarily; it has nothing to do with inclusionary zoning. The city knows that. In fact, Hazel McCallion said she wanted Bill 58 to be able to bring in inclusionary zoning. Certainly, Adam Vaughan would want inclusionary zoning and would argue that section 37 does not in any way address the need for affordable housing. There's no prescription whatsoever.

In fact, the section 37 dollars in my particular riding that have been negotiated with councillors have been used for everything from a fountain to steps in High Park. There's no mandate for housing, period. There's certainly no mandate for inclusionary housing. The two are apples and oranges; they don't relate whatsoever. Instead of having this be just almost private negotiation between a councillor and a developer, which I think is problematic, this would open it up and allow municipalities to make this transparent and to mandate that any dollars go to housing.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Any further discussion? None? I'll put the motion to a vote. All those in favour of the motion? All those opposed? The motion does not carry.

Shall section 2 of schedule 2 carry? All those in favour? Opposed? That carries.

We'll move now to schedule 2, section 3. The first motion is an NDP motion, but they are tied in with what you just said. You can read them into the record if you want to—

**Ms. Cheri DiNovo:** Unfortunately, now that Donna Cansfield, David Zimmer, Reza Moridi, Mike Colle and Bas Balkissoon have all voted against inclusionary zoning, the next amendments, numbers 92, 93, 94 and 95—

**Mr. Mike Colle:** You left out Joyce.

**Ms. Cheri DiNovo:** And Joyce; sorry.

**Mrs. Joyce Savoline:** Cheri doesn't look right. *Laughter.*

**Ms. Cheri DiNovo:** There's some truth to that.

Numbers 92, 93, 94, 95 and, unfortunately, 96, would all be, I would think, out of order since they all relate

back to my original motion; a sad, sad, sad day for housing in Ontario.

**The Chair (Mr. Lorenzo Berardinetti):** Are you withdrawing those motions, then?

**Ms. Cheri DiNovo:** Yes.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. There are now no amendments. Shall section 3 of schedule 2 carry? All those in favour? Opposed? Carried.

Shall section 4 of schedule 2 carry? Carried.

Shall section 5 of schedule 2 carry? All those in favour? Carried.

Shall section 6 of schedule 2 carry? All those in favour? Carried.

There are no amendments to sections 7 and 8. Shall sections 7 and 8 of schedule 2 carry? All those in favour? Carried.

Shall schedule 2 carry? Carried.

Let me go on to schedule 3, section 1. Shall section 1 of schedule 3 carry? All those in favour? Carried.

Now we move to schedule 3, section 2. There's a notice, 97. Ms. DiNovo, would you like to speak to that notice?

**Ms. Cheri DiNovo:** Yes. Legislative counsel might want to weigh in here. Unfortunately, I think this is probably also out of order. Again, this relates back to—I'll read it first. We can take it on from there.

"The New Democratic Party recommends voting against section 2 of schedule 3 to the bill.

"Reason for notice rather than motion: If the committee wishes to remove an entire section from the bill, the rules of parliamentary procedure require that the committee vote against the section, rather than pass a motion to delete it."

Again, we're very concerned. I look at the LeSage Review and I also look at the death of Mr. Gosling, and our ACTO submissions. We think that this should be removed in its entirety. We think that the Residential Tenancies Act needs to be opened up. It hasn't been.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate on this section? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** We'll be voting in favour of section 2 of schedule 3 to the bill.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? No? So then I'll put the question. Shall section 2 of schedule 3 carry? All those in favour? Opposed? That's carried.

We'll move on to—

**Ms. Cheri DiNovo:** Sorry, Chair, did you say "opposed"—

**The Chair (Mr. Lorenzo Berardinetti):** I'll do it again, but I think—I'll go forward, then, and do it one more time, with the permission of the committee.

Shall section 2 of schedule 3 carry? All those in favour? Opposed? Carried.

Then we'll move to schedule 3, section 3. On page 98 there's a motion. Ms. DiNovo.

**Ms. Cheri DiNovo:** I move that section 3 of schedule 3 to the bill be amended by striking out subsection (2).

Again, this relates back—

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Discussion? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** This would actually remove the ability of the province to restrict through regulations the types of matters that could be heard by the Landlord and Tenant Board staff members, so we will not be supporting this motion.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion?

**Ms. Cheri DiNovo:** It goes back to what I've already said about landlord/tenant relations.

**The Chair (Mr. Lorenzo Berardinetti):** We'll put the motion to a vote. All those in favour of the motion? All those opposed? That does not carry.

Shall section 3 of schedule 3 carry? All those in favour? Opposed? That's carried.

Shall section 4 of schedule 3 carry? All those in favour? Opposed? That carries.

Shall schedule 3 carry? All those in favour? That carries.

We have to go back for one moment, because we held down those first three sections. They were stood down. I'll put the questions now. We'll have the clerk explain it.

**The Clerk Pro Tem (Mr. Trevor Day):** The committee stood down the actual first three sections of the bill. We've been dealing with schedules all this time. We're going to go back and do sections 1, 2 and 3 of the bill, then the title and then the rest of it. So we're going to go back to the sections of the bill at this point.

**The Chair (Mr. Lorenzo Berardinetti):** We'll do section 1 first. There are no amendments to sections 1, 2 and 3, so I'll put them together. Shall sections 1, 2 and 3 carry? All those in favour? Carried.

Shall the title of the bill carry? All those in favour? Carried.

Shall Bill 140, as amended, carry? All those in favour? Opposed—

**Ms. Cheri DiNovo:** Excuse me, Mr. Chair. Discussion?

**The Chair (Mr. Lorenzo Berardinetti):** Ms. DiNovo.

**Ms. Cheri DiNovo:** Again, just to reiterate a few key points here—and we will want to take this back in the New Democratic Party and caucus the bill to see whether the good outweighs the bad in terms of voting for the bill as a whole. I'm not going to make that decision today.

Suffice to say that the bill as passed, without the amendments that I put forward, puts the Ontario government in breach of international law and the UN, as stated by the rapporteur from the UN, and certainly does not provide any housing. It makes us worst, 10th out of 10 of all the provinces in Canada in terms of investment.

It's a very sad day when not even inclusionary zoning can get a nod by this government, a very sad day for tenants, a very sad day for those who live in co-ops, a sad day for those who live in affordable housing—what's left of it. Some of the provisions of this bill will more easily give way to privatization, especially under administrations like the kind we have in Toronto right now. A sad, sad day.

I'll caucus the bill. I don't know if there's enough salvageable to vote for or not. Just for the record, it's very clear to me and it should be clear to all of Ontario that this is not a government that supports affordable housing in any way, shape or form.

Thank you, Mr. Chair.

**The Chair (Mr. Lorenzo Berardinetti):** Shall Bill 140, as amended, carry? All those in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? Opposed? Carried.

We're adjourned.

*The committee adjourned at 1650.*









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Second Session, 39<sup>th</sup> Parliament

# Assemblée législative de l'Ontario

Deuxième session, 39<sup>e</sup> législature

## Official Report of Debates (Hansard)

Thursday 14 April 2011

## Journal des débats (Hansard)

Jeudi 14 avril 2011

### Standing Committee on Justice Policy

Christopher's Law (Sex Offender  
Registry) Amendment Act, 2011

### Comité permanent de la justice

Loi de 2011 modifiant  
la Loi Christopher  
sur le registre  
des délinquants sexuels

Chair: Lorenzo Berardinetti  
Clerk: Katch Koch

Président : Lorenzo Berardinetti  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 14 April 2011

Jeudi 14 avril 2011

*The committee met at 0904 in committee room 1.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Lorenzo Berardinetti):** Good morning, everyone. I'd like to call this meeting to order. This is the Standing Committee on Justice Policy, today on Thursday, April 14, 2011.

We're dealing with Bill 163, An Act to amend Christopher's Law (Sex Offender Registry), 2000.

Our first item on the agenda is the subcommittee report. Do I have someone to read the subcommittee report into the record?

*Interjections.*

**The Chair (Mr. Lorenzo Berardinetti):** How about moving it and putting it on the record?

**Mr. David Zimmer:** I'll move it.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Zimmer.

**Mr. David Zimmer:** Your subcommittee on committee business met on Thursday, March 31, 2011, to consider the method of proceeding on Bill 163, An Act to amend Christopher's Law (Sex Offender Registry), and recommends the following:

(1) That the committee meet in Toronto for the purpose of holding public hearings on Thursday, April 14, 2011.

(2) That the clerk of the committee, with the authority of the Chair, place an advertisement for one day regarding public hearings in the *Globe and Mail* (Ontario edition), *Metro* (Toronto edition) and *L'Express* (if possible).

(3) That the clerk of the committee post information regarding public hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 163 should contact the clerk of the committee by Friday, April 8, 2011, at 5 p.m.

(5) That, in the event that all witnesses cannot be scheduled, the committee clerk provide the members of the subcommittee with a list of requests to appear.

(6) That the members of the subcommittee prioritize and return the list of requests to appear by 12 noon on Monday, April 11, 2011.

(7) That groups and individuals be offered 15 minutes for their presentation. This time is to include questions from committee members.

(8) That the deadline for written submissions be Thursday, April 14, 2011, at 6 p.m.

(9) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Tuesday, April 19, 2011, at 3 p.m.

(10) That clause-by-clause consideration of the bill be scheduled for Thursday, April 21, 2011.

(11) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

**The Chair (Mr. Lorenzo Berardinetti):** Are you moving adoption?

**Mr. David Zimmer:** I move adoption.

**The Chair (Mr. Lorenzo Berardinetti):** Any debate? Mr. Kormos.

**Mr. Peter Kormos:** I was part of the subcommittee and approved this initial subcommittee report. We've since gotten a response to the ads—the ads were published, as the report indicates, in two Toronto papers plus *L'Express*. We have the list of participants here this morning. There are three participants. We have this afternoon that the committee is entitled to sit. This is an important piece of legislation; we all acknowledge that. We've acknowledged that on second reading.

I addressed a number of issues on second reading, and I've been assured by the acting parliamentary assistant for the Minister of Community Safety that if amendments were made to address some of the issues I raised, at this point in time the government would not support them. Fine. I'm not going to move those amendments because, at this point, that would be nothing more than trying to stir the pot and play politics with this important issue.

We're reaching the end of the legislative season. I don't want to suggest that the government may not sit through to June 2, but it wouldn't be unheard of. I am fearful of the prospect of the House proroguing before June 2 and this bill not having been passed. Just think what a burden it would be to carry if the failure to pass this bill before the House rises resulted in a tragedy for any one of us—for the government, for every single member of this Parliament.

So, I'm looking to see whether there's any support for the consideration that we've got the three participants this morning; we've received a written submission—the only one, I'm told—that is interesting. I have respect for



the person who made the submission, but it doesn't give rise to any prospect of amendment, in my view. There's nothing in the written submission that would cause us to consider an amendment responding to the concerns raised by that particular party.

I'm interested in the prospect of us meeting again this afternoon and proceeding with clause-by-clause. It won't take very long. Then this bill can be reported back to the House and be on the order paper for being called for third reading at the earliest opportunity.

Otherwise, again, I'd suggest to government members who have been told, I'm sure—I know they've been told, "Don't worry, the government's going to sit through to June 2," but decisions are made on the spur of the moment when it comes to these pre-election periods.

I'm interested in if there's any interest in amending this subcommittee report so that we meet this afternoon to do clause-by-clause. We could amend it such that—it could be open-ended. It could be simply that the committee meet this afternoon to commence clause-by-clause and be adjourned at—again, a motion for adjournment. For instance, if the government didn't want to proceed with clause-by-clause, they could move adjournment, right? They've got the majority and they could therefore force us into next week. So I'm interested in if there's any interest in getting this bill reported back to the House today.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Dunlop.

**Mr. Garfield Dunlop:** I would agree 100% with you. I'm very fearful that the House could prorogue. We did it in 2007. Unless the government has a problem with some of their own possible amendments to the legislation, I would have no problem coming back here at 3 o'clock today and doing clause-by-clause.

**The Chair (Mr. Lorenzo Berardinetti):** At 3 o'clock or at 2 o'clock?

**Mr. Garfield Dunlop:** Whatever time we can come back this afternoon. We have the whole day scheduled for a committee meeting.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Mr. Zimmer?

**Mr. David Zimmer:** Chair, I would like a 10-minute recess.

**The Chair (Mr. Lorenzo Berardinetti):** All right. Is that fine, if we take a 10-minute recess and come back at—

**Mr. David Zimmer:** 9:30.

**The Chair (Mr. Lorenzo Berardinetti):** All right, come back at 9:30?

**Mr. Lou Rinaldi:** What about the delegation?

**Mr. Peter Kormos:** Do they mind waiting for 20 minutes? Grab a coffee.

**Interjection:** We'll get you all in.

**The Chair (Mr. Lorenzo Berardinetti):** All right, so we're recessed until 9:30.

*The committee recessed from 0912 to 0919.*

**The Chair (Mr. Lorenzo Berardinetti):** Okay. The committee's back in order. Mr. Zimmer?

**Mr. David Zimmer:** Speaking to Mr. Kormos's motion to move to clause-by-clause this afternoon, that's a good idea. We agree. I think this is a fine example of tripartisan co-operation on an important bill.

**Mr. Peter Kormos:** We have to amend the subcommittee report appropriately.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos, did you want to amend the report—a motion to amend it?

**Mr. Peter Kormos:** Yes, okay. I move that paragraph 8 be deleted, paragraph 9 be deleted and paragraph 10 be deleted, and that a new paragraph 8 read:

"And the committee shall resume on Thursday, April 14 at 2 p.m., or as soon thereafter as possible after routine proceedings, to commence clause-by-clause consideration."

**The Chair (Mr. Lorenzo Berardinetti):** Any discussion or debate? Mr. Zimmer.

**Mr. David Zimmer:** I would just ask the clerk, Mr. Clerk, does that satisfy the technical requirements?

**The Clerk of the Committee (Mr. Katch Koch):** Yes.

**Mr. David Zimmer:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Any further discussion? All those in favour of Mr. Kormos's motion? Opposed? Carried.

All those in favour of adopting the subcommittee report, as amended? Carried. The subcommittee report, as amended, is carried.

## CHRISTOPHER'S LAW (SEX OFFENDER REGISTRY) AMENDMENT ACT, 2011

### LOI DE 2011 MODIFIANT

### LA LOI CHRISTOPHER

### SUR LE REGISTRE

### DES DÉLINQUANTS SEXUELS

Consideration of Bill 163, An Act to amend Christopher's Law (Sex Offender Registry), 2000 / Projet de loi 163, Loi modifiant la Loi Christopher de 2000 sur le registre des délinquants sexuels.

## MR. JIM STEPHENSON

**The Chair (Mr. Lorenzo Berardinetti):** We'll have our first presenter come forward, Mr. Jim Stephenson.

I'd just remind all presenters that we've allotted 15 minutes for any presenter. If you finish before the 15-minute time period, we'll allow questions to be asked by the three parties.

Good morning, and welcome.

**Mr. Jim Stephenson:** Good morning, Mr. Chair. Good morning, members of the committee. My name is Jim Stephenson, and as Christopher's father I want to express my appreciation for being given the opportunity to participate in the public hearings on Bill 163, An Act to amend Christopher's Law (Sex Offender Registry), 2000.



As you probably all are aware, Christopher was abducted from a local shopping mall by a convicted child molester with a criminal record for a previous sexual assault against a child in 1985. Christopher was at the mall with his younger sister and his mother. They were shopping for a Father's Day gift. His abductor kept Christopher alive for a period of approximately 36 hours following the abduction, and during that time our son was repeatedly assaulted and physically abused. In the early hours of that Father's Day, he was forced into a vacant field, strangled unconscious, and then stabbed in the neck and left to die. Christopher was 11 years old and had been selected to play in an all-star house league baseball game that same Sunday.

A massive investigation was launched by police that same night, and by the end of the weekend his alleged killer was in custody. At the 1989 murder trial, he was found guilty and given the mandatory life sentence. Two years later, in January 1992, he was murdered in Kingston prison at the hands of a fellow inmate.

An inquest into Christopher's death began in the fall of 1992, four years following his murder. It would last a total of six months. In the end, the jury issued a verdict containing a number of recommendations, among them being that the federal government move immediately to create a national registry of convicted sex offenders. Notwithstanding the urgings of Christopher's family, friends, members of law enforcement, the Canadian public and others, the government of Canada took no action on that recommendation.

Some years later—in 2001, to be exact—the government of Ontario introduced Christopher's Law, the first of its kind in Canada. Under the legislation, a person convicted of a criteria sexual offence was ordered to register with authorities following their release. During the registration process, police enter information on these individuals into a secure database managed by the Ontario Provincial Police in their Orillia, Ontario headquarters. Information such as name, date of birth, current address, together with a photograph and details of the sex offence or offences for which the individual was convicted, are entered. The OSOR, as it is more commonly known, quickly established itself as a state-of-the-art tool with a robust capacity for managing the convicted sex offender population.

The question that I have been presented with many times since 1988 is, would the existence of a sex offender registry have saved Christopher? That is a question that I think concerns members of the committee here this morning.

Let me respond to that. Joseph Fredericks had committed a number of violent sexual assaults in 1985. He was convicted and sentenced to a five-year prison term. Assuming the registry would have been in place—and that's a major assumption—Fredericks would have been required to register with authorities upon his arrival in Brampton; in other words, he would have been on the province's database of convicted and released sex offenders. Within minutes of the abduction of Friday even-

ing, authorities could have accessed that database and determined Joseph Fredericks's address. It would not have taken very long after that for officers to have gone to the address, which turned out to be a private home—the main floor and upstairs occupied by the owner, his wife and two young children.

When we absorb the chilling statistics that accompany child abductions for sexual purposes—and I'll repeat some here: 44%, almost half, are dead within one hour of the abduction; 74% within three hours; and 91% within 24 hours of the abduction—we understand very quickly that had the registry been in place and police in possession of the information contained in that database, the outcome of that Father's Day weekend would have been very different. Police intervention, I propose, could have saved Christopher's life.

In the decade that followed the proclamation of Christopher's Law here in Ontario, there have been two occasions for revision to the legislation. The first changes responded to the Provincial Auditor's report in 2007. The changes involved a number of general administrative amendments intended to improve the registry's operating efficiencies and further improve community safety.

In the time between proclamation of the OSOR legislation in 2001 and the amendments I've just referred to, the federal government finally moved and proclaimed the national Sex Offender Information Registration Act in 2004. While it was more or less understood that the two registries fully complemented one another in the goal of providing authorities with additional tools to track and monitor convicted sex offenders released into communities Canada-wide, the reality was very different.

Apart from requiring convicted sex offenders to register with authorities, the national registry was, in essence, a poor cousin to Ontario's registry. Because it fell short of the mark on so many important issues, it was not inaccurate to refer to the national sex offender registry as a notional sex offender registry, and that in fact was what the public came to understand.

It is not my intention to take up this committee's time this morning with details of the shortcomings of the national model, because I believe the majority have been identified and addressed during the course of the parliamentary review carried out in 2008. The necessary amendments are adequately incorporated in federal Bill S-2, which received royal assent in December of last year and which in fact is expected to be proclaimed this week.

Once Bill S-2 comes into force, there will be legislative differences between the national and Ontario registries. The amendments embedded in Bill S-2, however, necessitate some offsetting changes to Ontario's current legislation to synchronize the two legislative regimes. These revisions were introduced by the Honourable Jim Bradley, Minister of Community Safety and Correctional Services, and began the process that brings us here this morning.

Firstly, reporting conditions: S-2 requires offenders to report within seven days, while the Ontario legislation currently requires a reporting time of within 15 days.



Federal legislation requires offenders convicted outside of Canada to register. At present, Ontario does not require registration.

**0930**

Secondly, there are pardon provisions which would be different. The national registry will maintain the records of registered offenders who receive a pardon under the Criminal Records Act. At the present time in Ontario, information pertaining to all pardoned offenders must be removed from the registry altogether.

Finally, the federal legislation will require reporting of certain volunteer and employment information. At present, this is not a requirement under the provincial legislation.

The involvement that my wife and I share in Christopher's Law is obviously very personal. My commitment to enhancing public safety dates back to that Father's Day weekend in 1988. In my view, the proposed changes to Christopher's Law not only capture the spirit of co-operation in enhancing community safety between the province and the federal government, but the amendments are also absolutely critical for the purpose of protecting the public.

These amendments are long overdue and much owed to the public. The safety and well-being of the citizens of the province will only stand to gain from the amendments now being considered.

I would be pleased now to take any questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Stephenson. We have about five minutes, so a minute or two per party. We'll start with the Conservative Party. Mr. Dunlop.

**Mr. Garfield Dunlop:** Mr. Stephenson, I don't really have any questions for you. More than anything, I have just a comment, basically to say that I appreciate the work that you've done over the last 24 years as Christopher's dad, and your family—the leadership you've shown to try to work with different governments. I think you can kind of see, from the support you've got here today from all three parties and the support that you got from the federal and provincial governments, that this is a really, really important piece of legislation. We absolutely have to make sure this gets passed and aligned with the federal legislation as quickly as possible.

I guess my comment on behalf of our caucus is to say that you lost your son, and you've shown leadership. I'm just wondering, with the Ontario sex offender registry, how many lives you may have actually saved. You'll never know that, but that's true leadership, and it takes a lot of courage for you to come, year after year, to these types of hearings and stuff. We really appreciate it and thank you very much for it.

**Mr. Jim Stephenson:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** We'll go to the NDP. Mr. Kormos.

**Mr. Peter Kormos:** Thank you very much, Mr. Stephenson.

**The Chair (Mr. Lorenzo Berardinetti):** To the Liberal Party. Mr. Colle.

**Mr. Mike Colle:** Again, I just want to repeat the sentiments of my colleague across the way. It's just an incredible mountain you've been climbing. I don't know where you and your wife get the courage and the strength to go through what you've gone through.

You've given so much back, despite that. So I just want to continue to say that all of us in the Legislature really are at the disposal of your continuing efforts if we can help in any way. This is an example of letting us know what we've got to do to help you in your courageous, ongoing battle in memory of your son Christopher.

I think that we need to do more just to remind people of the dangers that are out there. We all assume. We're in our homes and neighbourhoods—especially when it comes to children and the dangers that lurk out there. So if there's anything else we can do and you think we should do as MPPs or government, please don't hesitate to call upon us. I think all of us feel the same way on this issue.

Just accept our full appreciation and respect for what you've accomplished, Mr. Stephenson. You've done it for a lot of children, not only in Ontario but across this country, and we've got to take time to say that it's deeply appreciated by a lot of people who aren't here to speak and say that.

**Mr. Jim Stephenson:** Well, thank you. And thank you, too, to representatives from all the parties for the initiative and enthusiasm you've shown to move the clause-by-clause review of the legislation up to this afternoon, in light of what might possibly be a shortened session of the Legislature. Thank you very much for that.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Mr. Stephenson.

**Mr. Jim Stephenson:** I thank you, then, for allowing me the privilege of speaking here this morning.

## ONTARIO PROVINCIAL POLICE

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next deputation: the Ontario Provincial Police. We have Ron Gentle and Adam Alderson. Good morning, and welcome.

**Mr. Ron Gentle:** Good morning, Chair. Thank you very much, committee members. My name is Ron Gentle. I'm a chief superintendent with the Ontario Provincial Police and commander of the investigation and support bureau. One of the units of that bureau is the Ontario sex offender registry. Staff Sergeant Adam Alderson, who's here with me, is a manager of the OSOR.

I am here before you today representing the Ontario Provincial Police. The OPP manages the Ontario sex offender registry on behalf of the Ministry of Community Safety and Correctional Services. The OSOR is located in OPP general headquarters in Orillia within the investigation and support bureau, behavioural sciences and analysis section. It provides training and operational support, 24-7, to all Ontario municipal and First Nation police services and OPP detachments through the OPP



GHQ duty office. The OSOR unit is responsible for the Ontario link to the national sex offender registry.

Bill 163, An Act to amend Christopher's Law (Sex Offender Registry), 2000, was introduced on March 10, 2011, to align Christopher's Law with the recent changes to the federal registry as amended by the passing of Bill S-2. The federal statute comes into force tomorrow, April 15.

Bill 163 removes existing legislative offender reporting timelines of 15 days and comes in line with the federal seven-day requirement. It adds a new regulation-making authority to prescribe the timelines for reporting in sections 3 and 7 of the act. It requires offenders who have been convicted of a sex offence outside of Canada and who have been ordered to report to the national registry to also report to the Ontario registry. And it allows the Ontario registry to maintain the records of registered offenders who receive a pardon under the Criminal Records Act.

These changes will align the Ontario sex offender registry with the national sex offender registry legislation, as amended by Bill S-2. These amendments will maintain smooth and efficient sharing of Ontario's sex offender registry information with the federal registry. This is currently achieved through an electronic interface between the OSOR and the NSOR. This facilitates a timely upload of offender information from Ontario, thereby enhancing public safety.

Ontario uploads approximately 40% of the registered sex offenders on the NSOR and is the only province or territory that uploads the data electronically. All other provincial or territorial NSOR centres use a manual uploading process that can take between two to four weeks.

The OSOR requires these amendments contained in Bill 163 in order to continue to ensure the continued use of the electronic interface. The provisions of Christopher's Law authorize the effective use of the technology of the OSOR.

Today, we have a premier sex offender registry in Ontario, with a 97% compliance rate, one of the highest rates of any sex offender registry in all of North America. The OSOR is not accessible to the public, and this contributes to the high offender compliance rate.

Police services have the authority under the Police Services Act to notify the public that a sex offender is residing in the community if they believe that the public might be at risk. Police services have used that authority when necessary to ensure public safety.

The OSOR is an investigative tool for police that, in 2010, was accessed an average of 745 times per day by Ontario police services. The OSOR is extremely valuable in time-sensitive investigations. It is an effective tool to help police investigate sex crimes and monitor offenders in the community. In existence for 10 years, the OSOR is successfully being used for investigations and crime prevention to enhance public safety. A few recent examples of the success:

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A young child was sexually assaulted; suspect descriptive details were entered into the comprehensive OSOR

search application, and a convicted sex offender was subsequently identified and charged.

A violent repeat offender was non-compliant and at large. Using the OSOR and drawing on the specialized services of the provincial repeat offender parole enforcement unit, the offender was located, taken into custody and charged accordingly.

An officer was proactively familiarizing themselves with the registered sex offenders in their jurisdiction. This led to the officer identifying a registered sex offender in a public venue around children. The officer was able to find the offender in breach of their sentence.

A sexual assault occurred in a rural Ontario community. In the following days, a convicted sex offender fulfilled their reporting obligation, and the registrar realized that the offender matched the description of the suspect in this sexual assault. The offender was arrested and charged.

Collateral success has been realized by investigators conducting address verifications, which is an extremely important component contributing to the success of the OSOR. Police officers have found marijuana grow operations and prevented the distribution of the drugs.

In order to continue to be a leader with its sex offender registry, the passing of Bill 163 is integral for Ontario's continued leadership. Moreover, it is paramount in contributing to the safety of Ontarians by providing the legislative authority, through alignment with the federal legislation, to ensure timely upload of offender data from Ontario to the NSOR.

Staff Sergeant Adam Alderson and I will now take any questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. We'll begin our rotation with Mr. Kormos for the NDP.

**Mr. Peter Kormos:** Thank you kindly.

I'm interested in the 97% compliance rate, not because it's not good but because that means that there are 3% who aren't complying, and the data that we've read over the course of considering this legislation in the last 15 years is that the people who don't report are the ones who are far more likely to repeat-offend. That's not rocket science; it's pretty obvious. Is there no input from the conviction process itself to the national registry or to the provincial registry, so that somebody who has been convicted of a defined or prescribed offence is red-flagged so that somebody is waiting for them to show up and report?

**Mr. Ron Gentle:** It can be done. However, we have to remember that a lot of people in today's society are quite transient in nature, and they can move from jurisdiction to jurisdiction. Some people may register once they're convicted and are released and go into society, but they may not re-register when they change jurisdictions.

The registry assists in identifying these people and actually alerting law enforcement immediately, and we can track them down easier. The 3% that we're talking about can be transient, and Adam can expound on that a little bit.

**Mr. Adam Alderson:** Mr. Kormos, that's one of the areas where the Ontario sex offender registry is a better



tool for crime prevention investigation, because it has a proactive notification component where it will go to the police of jurisdiction and notify that a sex offender is non-compliant, and then that alerts the police agency to try and track that person down. So proactively, the registry does that, and then the police service within their jurisdiction will track them down. That's a tool to address that 3%.

**Mr. Peter Kormos:** How does that happen? Is the sex offender registry advised of a conviction?

**Mr. Adam Alderson:** Yes. There's a process where there are judicial forms that are filled out by the judge when there's disposition for the case, and then they're ordered through the criteria offences that go on, and the criteria offences for the Ontario registry are downloaded—we get the downloads from OTIS, which is the court's computer system. That's the first step in the process, if you will.

**Mr. Peter Kormos:** Offences committed outside the country—because we've got two types of offences. We now have Criminal Code offences where you can be convicted in Canada of a sexual offence committed outside the country, and then you have people who are convicted of sex offences in a jurisdiction other than the Canadian jurisdiction. How do you identify the people who are convicted outside of Canada?

**Mr. Adam Alderson:** There's some requirement there for self-reporting, of course. We've also been working with the Ministry of the Attorney General through a working group and on a national level to identify exactly what offences in which jurisdictions equate to something as a criteria offence. Those are complicated issues but the bottom line or the crux of that is a self-reporting issue to start with.

**Mr. Peter Kormos:** So that's a tough one?

**Mr. Adam Alderson:** Yes.

**Mr. Peter Kormos:** Let's be clear: You're not going to require the registration of somebody who is convicted outside of Canada for a thing or a behaviour that isn't a crime inside of Canada.

**Mr. Adam Alderson:** I don't know that I can speak to that.

**Mr. Ron Gentle:** If it isn't a criteria offence, if it doesn't match with a criteria offence, no.

**Mr. Peter Kormos:** Exactly, because, clearly, in different parts of the world, there's still sexual conduct that's illegal.

**Mr. Ron Gentle:** That's right.

**Mr. Peter Kormos:** That's *prima facie* illegal in that jurisdiction, but it's not illegal anymore in Canada. Okay, thank you kindly. I appreciate your time.

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to the Liberal Party. Mr. Zimmer.

**Mr. David Zimmer:** The bill does not contemplate public access to the registry, and it's left to the discretion of the police department—the OPP, in this case—to inform a community. You've acknowledged that that's a responsibility of yours. Can you tell me how that process works, how it comes about that a decision is made to in-

form a local community of the presence of someone who's on the registry?

**Mr. Ron Gentle:** Well, there could be a number of situations. Generally, the offender would be released from custody and be considered a high threat to re-offend, but they've met their mandatory sentence and have been released. Maybe while they were in custody, they refused treatment, or maybe they weren't compliant with some of the other conditions, but they've done their mandatory time, now they're being released, and they're deemed to be a continued threat—a high probability to re-offend. That is obviously going to be a public safety issue. The police agency of the jurisdiction—wherever this person resides—would then be responsible to make a decision whether or not they believe there is a public safety issue and then advise the identification and address of the person.

We also have, in the OPP, a group called ROPE, which is repeat offender enforcement. They work with the federal penitentiary system. When a high-risk offender is being released, we work together. We're notified, and we will investigate that person and put them under surveillance to find out where they're going to and make sure that we can notify the agency of the jurisdiction that this high-risk offender has chosen to reside—either temporarily or permanently—within their jurisdiction and work with them to ensure public safety.

**Mr. David Zimmer:** I think Mr. Colle has a question.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Mr. Colle.

**Mr. Mike Colle:** I just want to clear something up. In terms of responsibility for notifying a local community, my colleague Mr. Zimmer said it was the OPP. What role would the local police services play, what obligation?

**Mr. Ron Gentle:** The police agency of the jurisdiction has that responsibility. The OPP maintains the OSOR on behalf of the ministry and Ontario police services. But the local police agency of jurisdiction, whether it's a municipal police agency or an OPP detachment, would be the ones to make that decision.

**Mr. Mike Colle:** Okay. Thank you for clarifying that. The other question I had is in terms of the electronic uploading of information to the national registry which we have in Ontario. With the federal legislation, is there a requirement that the other jurisdictions in Canada do their uploading digitally, or are they still doing it manually?

**Mr. Ron Gentle:** I think they're still doing it manually. I'll let Adam answer that.

**Mr. Adam Alderson:** Yes, Ontario is the only one with the electronic registry, so we're the only ones with the electronic capabilities. Essentially, we have two uploads a day electronically.

I'll back up. In other jurisdictions, provinces and territories, they'll do the manual registration. An offender will come in at the local police, they'll fill out the form, that will get sent to the one centre for that province or territory, and it will eventually get uploaded—data entry.

In our situation, because the Ontario sex offender registry is linked to the national registry through an



interface, each of the 146 registrars in Ontario that have access to the Ontario sex offender registry do the registration at a terminal. So when they enter that data into the terminal on this sex offender that is going to go to the national, as soon as it's sent to Ontario's registry, when the interface connection happens that day, then the information gets transmitted in that manner. This legislation allows us to gather that information into the Ontario sex offender registry to maintain that link. Otherwise, we won't be able to gather the information.

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**The Chair (Mr. Lorenzo Berardinetti):** I'm going to have to move forward—

**Mr. Mike Colle:** And just one last question: Isn't there a delay? As I think you mentioned, they're very transient in nature, some of these people, so if something happens in Quebec, and they're doing it manually there, isn't there this delay?

**Mr. Adam Alderson:** That's where Ontario is the leader in this area, sir, because ours is in real time, if you will. They register today, and they live at 123 Main Street, and the national registry knows that. If they register now and it's manually done, then that delay, that two- to four-week delay, will delay that information and it's inaccurate, thereby creating a jeopardy to public safety. Again, that's where Ontario's the leader in that real-time process.

**The Chair (Mr. Lorenzo Berardinetti):** I have to move on. Excuse me.

**Mr. Mike Colle:** But we could be in jeopardy because if they're not up to speed in Quebec, you know—

**Mr. Adam Alderson:** The idea would be, in the situation with the national, they would have to search those files. They would look for the offender's documents where he last went to. But, certainly, in other jurisdictions, there is that lag. It would probably be affected adversely, and exponentially, in Ontario, because we upload 40% of the national offenders.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. I have to move on, just to keep the clock going. Mr. Dunlop.

**Mr. Garfield Dunlop:** Guys, I've had a couple of tours of the registry over the years, and I have a lot of respect for the work you do, so keep up the good work.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation this morning.

DR. LISA DOUPE

**The Chair (Mr. Lorenzo Berardinetti):** We'll move on to our next presentation: Ms. Lisa Doupe. I hope I pronounced it properly. Good morning, and welcome.

**Dr. Lisa Doupe:** Good morning. Thank you for allowing me to speak. My name is Dr. Lisa Doupe.

**The Chair (Mr. Lorenzo Berardinetti):** I'm sorry?

**Dr. Lisa Doupe:** Doctor. I'm a physician.

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Thank you, Doctor.

**Dr. Lisa Doupe:** That is the area that I want to talk to this committee about: the medical treatment, which I see as the other side of the safety issue. These people will be released on to the streets, and the issue is, what is the capacity of the health care system to address their needs and to provide continual, ongoing treatment?

It is commendable that Bill 163 will align the provincial registry with the federal registry, with the purpose of supporting the local crime investigation. But I also suggest that perhaps the yearly contact, which is required by being registered, also be strengthened by providing the sex offender with some information with regard to ongoing treatment.

Right now, there is a significant gap from when a sexual offender is released to ongoing care. In fact, I think I'm probably one of the few general practitioners who address the needs of low-risk sex offenders. I am currently working with two forensic psychiatrists and some forensic psychologists, but based on the needs of my patients, the sex offenders, there is a crying need, and a recognition by them that there is a need, for this ongoing care that just is not available in the community health services.

I wonder—I'm not a legislator—whether this contact, which is made yearly, could not also be added to with some information, a pamphlet, about how to ensure that their mental health is balanced, which is one of the key reasons why they offend, and where to access treatment.

This recommendation would strengthen section 5(g) of the Ministry of Correctional Services Act, to provide programs for the prevention of crime. We certainly know, in occupational health and safety, health being the flip side of safety, that information to people does promote awareness, which is the first step in terms of changing behaviours.

In order to prevent my patients from reoffending, I teach tools and skills on how not to reoffend to the groups of newly charged offenders, as well as those who have been released on parole. My patients tend to be low-risk, and have been identified, usually through the justice system, and are referred to me by parole officers, lawyers and the psychiatrists that I work with.

I facilitate a group each Monday night called Moving Forward to help sex offenders try to deal with what their issues are currently, as well as the challenges that they will meet in the future.

In the previous 10 years, my experience has been in treating patients addicted to opiates. The experience has been reinforced because 90% of the addicts addicted to hard drugs have been child victims of sex offenders. Addiction to hard drugs is one of the late outcomes for victims of sexual abuse. By not optimizing the process of prevention, victims continue to be put at risk.

I believe that treatment for all sexual offenders should be made mandatory. I understand this is controversial, but I also understand that in Ontario, under the Health Protection and Promotion Act, there is a clause that might enable us to address this as a possible solution.

My message is to remind you that treatment for low-risk sexual offenders, as defined by classification,



works—the work of Bill Marshall has demonstrated that within our correctional system—and that the sex offenders registry created by Christopher's Law should not only track offenders but should be used to provide ongoing health information regarding possible treatment opportunities to prevent reoffending at every opportunity. The repetition of the message will reinforce the message that I, as a physician, want to encourage. Teaching offenders the tools and skills improves their capacity to not reoffend.

Changes in medicine have improved significantly in the past five to 10 years, and one of the new concepts within medicine is about the neuroplasticity of the brain. It is based on that new understanding of that characteristic that we are unable to make changes for people with tendencies or who do sex-offend.

I refer you to a chapter in Norman Doidge's book, *The Brain that Changes Itself*, chapter 4, to have a further understanding of why people get into this habit of Internet pornography, which is the main type of offender that I treat.

I have to say that practising this kind of medicine is a natural complement to the correctional service, the justice system and medicine working together. Through the arrest, the person's attention is focused so that learning my teaching of the tools and skills, which is quite comprehensive, becomes much more easy, as well as having them do the homework that is required in order to change their behaviour.

Learning the new tools and skills creates what is called "new neural pathways," and with practice, these pathways are strengthened and override the old neural pathways, which were the basis for their original habit.

The printed information that I recommended to be included in their annual visit could include how to access care in their area; an overview of strategies to strengthen brain functioning, including nutrition, exercise, a reading list, meditation techniques, information on the value of medication, the value of music, the need for socialization; and many of the other strategies that have been found to be useful in this diagnosis.

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It would be a significant addition to their rehabilitation to have my teachings reinforced by the justice system and their recommendations of following up treatment. It's the repetition of learning that becomes critical when one is trying to create new neural pathways and strengthen them.

We understand that addictions to pornography cannot be cured, but they can and need to be managed continually. Again, I reference *The Brain that Changes Itself* by Norman Doidge to understand that the neurophysiological changes provide the pathway to developing programs to address the size or the area of the brain, which then can be overridden.

We also know that successfully changing behaviour is also built on having motivation, as well as knowledge and abilities. The justice system, these amendments, all add to reinforcing their attention to the teaching that I do as a physician.

With that, I will thank you for your attention and answer any questions you may have.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you for your presentation. We have about two minutes per party, so we'll start with the Liberal Party this time. Mr. Colle.

**Mr. Mike Colle:** Doctor, I really commend you for the work that you do. It's obviously something that is not without its incredible challenges. I certainly appreciate the comments you've made in terms of the need to have this partnership with the medical system, along with the police services and the criminal justice system. I think you make an excellent point in bringing that to our attention because it is a very difficult undertaking. As I said, not too many people want to deal with that reality, but you're certainly there on the front lines and I want to commend you for that.

**Dr. Lisa Doupe:** Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Mr. Kormos?

**Mr. Peter Kormos:** Thank you, Doctor. You've brought an important dimension to this discussion. What types of programs are taking place, let's say, in provincial institutions right now treating sex offenders? Are we talking about—

**Dr. Lisa Doupe:** Post-release?

**Mr. Peter Kormos:** Yes.

**Dr. Lisa Doupe:** I deal with the community, once they get post-release. I have to say, based on my experience, not all offenders actually get into a program. There simply just aren't enough spots and, therefore, the question is, what happens to the people who do not access or are lucky enough to get the treatment? What happens to them once they are out in the community? They disappear.

**Mr. Peter Kormos:** I suppose this could vary, but give us a general idea of how you need to work with somebody to achieve results.

**Dr. Lisa Doupe:** Changing behaviours, whether it's drugs, alcohol etc., is a lifelong process. But the initial understanding depends upon their reciprocity, which is why this partnership with the justice system works so well. I tell you, it is very effective in getting attention, unlike other addictions, like alcohol, where you don't have that focus by an external force.

**Mr. Peter Kormos:** But is a program that you run something like AA? Might some people commit themselves or see themselves participating in it almost forever?

**Dr. Lisa Doupe:** I would recommend that. Now, whether they have to come and see me forever, they do need to build a support around them. The Mennonite community does have this circle of support and accountability and it would be nice to have some continuity in terms of the process in partnership with them, so that once the tools and skills have been taught to this group of people, they can then be referred to the circle of support and accountability.



I have had one opportunity to work with them, and the comment was that they are not mandated to work in the provincial system. So my patient, who is one of the most high-risk people within Ontario—they supported me only because of a favour. They have not been funded to deal with the provincial system; they get their funding through the federal system, and with the Conservative government, some of their funds, I understand, have been cut, which I don't—

**Mr. Peter Kormos:** You're not keen about it.

**Dr. Lisa Doupe:** No.

**Mr. Peter Kormos:** I got that impression.

I presume you're here in Toronto?

**Dr. Lisa Doupe:** Yes.

**Mr. Peter Kormos:** What happens in an area like mine? I'm from Niagara. What happens in northern Ontario? What happens in remote parts of the province?

**Dr. Lisa Doupe:** Unfortunately, not anything. We don't even have people who have been trained in this area.

Unfortunately, people who are released just go back into the community, struggling—and let me tell you, they do struggle because they know, if they're at low risk, that sometimes the risk, which is associated with being released, and the stress—because they're lost their family, usually; they've lost their job, they've lost their friends, they've lost everything. They've often lost all of their money because they've had to pay for lawyer's fees etc. So the stress of that then, when you understand the nature of addiction and behaviour problems, may bring out further thoughts and further need to reoffend, which is why the treatment part becomes so critical to address, when you're addressing this area.

**Mr. Peter Kormos:** Thank you kindly, Doctor.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Doctor, for your presentation today.

That completes our list of presenters for today. This committee is recessed until 2 o'clock, after routine proceedings.

*The committee recessed from 1008 to 1405.*

**The Chair (Mr. Lorenzo Berardinetti):** I'd like to call this meeting back to order: Bill 163, An Act to amend Christopher's Law (Sex Offender Registry), 2000.

We're now going clause by clause. Pursuant to standing order 80, I'll ask: Are there any comments, questions or amendments to any section of this bill, and if so, to which section? None? We'll go clause by clause.

Shall sections 1 to 9, inclusive, carry?

**Mr. Peter Kormos:** One moment. First you have to determine whether there's debate on it.

**The Chair (Mr. Lorenzo Berardinetti):** I was going to say the debate call afterwards. All right. You wanted to debate before—

**Mr. Peter Kormos:** Sections 1 through 9, and then I'm going to say, "No, thank you."

**The Chair (Mr. Lorenzo Berardinetti):** Okay. Are there any comments, questions or amendments to any section of the bill, and if so, to which section? Mr. Kormos.

**Mr. Peter Kormos:** No, thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Okay.

**Mr. Peter Kormos:** Shall sections 1 through 9—

**The Chair (Mr. Lorenzo Berardinetti):** Shall sections 1 to 9, inclusive, carry? All those in favour? Opposed? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 163 carry?

**Mr. Peter Kormos:** One moment.

**The Chair (Mr. Lorenzo Berardinetti):** Mr. Kormos.

**Mr. Peter Kormos:** I'm only going to comment briefly, very briefly, if only to explain why this bill is being treated in this unusual way. It's because it's an unusual bill—not that there's anything peculiar about it, but it is designed to complement the federal legislation, which, as we were told, will be proclaimed tomorrow. That gives some urgency to this whole matter, if the two regimes are going to be complementary to each other. If the federal bill is proclaimed tomorrow, then it's relatively urgent that this bill be proclaimed as speedily as possible.

As you heard earlier today, we were also concerned about the prospect—anything could happen at this point in the Legislature, as we're approaching an election date. The House is scheduled to sit until June 2, but as I say, a prorogation could occur as a result of a political decision by the government. These things happen. So we were fearful of the bill not getting passed, and all of us agreed that that, in and of itself, argued for some expediting of the process.

You heard me, on second reading, express concerns about a couple of facets of the regime. We were able to address one of them today with the police officers who were here, the OPP officers. I'm still concerned about the fact that this doesn't deal with young offenders, neither the level 1 nor level 2, the 16- and 17-year-old young offenders. That I consider to be a serious omission.

It also doesn't deal retroactively in Ontario, so that means there's still a significant number of convicted sex offenders—people who have been convicted of sex offences, some of them very dangerous ones—who are not obliged to register for the registry.

I've spoken with the parliamentary assistant, and he's explained to me that at this point in time, the government would not have been receptive to amendments to have effected the changes that I might have sought, and I accept that. That's the nature of the beast. That matter, I suspect, will still prevail.

The other issue, of course, is the nature of the system in that—we learned a little bit about it today. We know that 3% of registerable sex offenders don't register in the province of Ontario. The inference can be drawn, I think, that amongst those—not all of them, but amongst those—are some of the most dangerous sex offenders. That's why they don't register. That's problematic. We heard how there's reporting from courts when there are convictions, and that's a start, but we still haven't got our heads around how you ensure that every single sex of-



fender becomes registered, one way or another. Perhaps it's simply impossible unless you get into weird worlds of planting chips into people's molars or those sorts of things that we see in movies from time to time.

Nonetheless, I've been involved in the debate on this bill from the get-go, from its very origin, and I'm ready to proceed with it. I'll be speaking more to the bill come third reading.

I do want to ask people to especially take a look at the material that was left behind by Dr. Lisa Doupe, who added an interesting dimension to this whole discussion—an important one, one that we often tend to overlook and one that the bill in and of itself isn't designed to address. She spoke this morning, albeit briefly, because she had a short period of time, about the paucity of treatment in our provincial institutions—talking about correctional facilities—and in the community for, I presume, those treatable sex offenders, the ones who are low-risk. She suggested very strongly that those people were treatable. She also suggested, by referring only to low-risk, that there's a level of sex offender who probably isn't treatable, and that should cause us concerns as well, because these people are being released, just like low-risk sex offenders are.

So I'll leave it at that. I look forward to third reading. I trust that will come along relatively speedily. Then the government can get on with proclaiming its bill.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? Mr. Zimmer?

**Mr. David Zimmer:** I spoke at length in the House on this matter, and my detailed remarks and various explanations for what's behind the bill or what it means are on the Hansard reflecting those debates.

But just a quick statement for the purposes of this committee: Why are we moving forward with Bill 163 now? Well, Mr. Kormos has hit on it; on December 9, 2010, the federal government introduced Bill S-2, which deals with the registry and sex offenders and so on. That bill is going to be proclaimed tomorrow, April 15. The effect of that bill, when matched with our existing bill here in Ontario—there are certain differences or inconsistencies or anomalies between the two, revolving

around four things: reporting obligations, the addition of offenders convicted outside of Canada, the addition of certain employment and volunteer information and, fourthly, there would be some differences in the way the records of offenders are maintained, treated and used.

It's important for the people of Ontario—indeed, the people of Canada—that the two acts are in sync and that nobody falls between the cracks. So, when you go through the fine print of the bill, what our bill does is ensure that there's consistency with the Ontario position and the federal position so that, at the end of the day, the bills will serve their intended purposes.

I do want to thank my colleagues from the Conservative Party and the NDP for the co-operation on this matter to enable us to get it through today so that, come tomorrow, April 15, the federal government and the provincial government are sort of all on the same page on this important issue.

I do have people from the ministry here, including the lead counsel on this, if there are any questions—technical questions—that anybody wants to get into. But I, without being presumptuous, don't expect that's the case today. Thank you.

**The Chair (Mr. Lorenzo Berardinetti):** Any further debate? None?

Shall Bill 163 carry? All those in favour? Opposed? Carried.

Shall I report the bill to the House? All those in favour? Opposed? Carried.

Any other business? Mr. Kormos?

**Mr. Peter Kormos:** Yes, sir. As people know, Mr. Zimmer is not the parliamentary assistant to the Minister of Community Safety; he's the parliamentary assistant to the Attorney General. He has done double duty. Some of his colleagues who wonder why they're not rising in the ranks as quickly as they wish should just look to Mr. Zimmer to indeed see how it's done and see how a competent, capable, skilled member of this Legislature earns the respect of the Premier's office.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you. Okay, so we're now adjourned.

*The committee adjourned at 1414.*











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